



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

CRM-M-16521-2025
Date of decision: 26.03.2025

Harsh Jindal

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Harsh Goyal, Advocate
for the petitioner.

Mr. Subhash Godara, Addl.A.G., Punjab.

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 FIR no.78 dated 20.05.2022 registered under Section 229-A IPC at Police Station City-II, Malerkotla and all consequential proceedings arising therefrom.

2. Briefly, the facts of the case, as alleged, are that the petitioner was arraigned as an accused in FIR No.1 dated 03.01.2018 registered under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter 'NDPS Act') at Police Station City-II, Malerkotla. He was arrested from the spot as 5 grams of brown sugar (*chitta*) was recovered from him. Thereafter, he was granted the concession of regular bail by learned Special Court, Sangrur vide order dated 05.02.2017 (Annexure P-2). However, the petitioner absented himself from Court resulting in cancellation of the bail and forfeiture of the bail bonds vide order dated 09.08.2018(Annexure P-3) passed by learned Special Court, Sangrur. Subsequently, vide order dated 18.04.2019 (Annexure P-4), the petitioner was declared to be a Proclaimed Offender. By virtue of the same, FIR (supra) was registered against the petitioner under Section 229A IPC on



20.05.2022.

3. Learned counsel for the petitioner *inter alia* submits that the FIR(supra) has only been filed to harass the petitioner. Moreover, the learned Court concerned is barred from taking cognizance of FIR(Supra) by virtue of Section 468 Cr.P.C. as the FIR(supra) was ordered to be registered in pursuance of order dated 18.04.2019 (Annexure P-4) but the same was registered on 20.05.2022, i.e. after a delay of about 03 years.

4. Learned State counsel, appearing on advance notice, submits that it is a matter of record that the petitioner has failed to appear before the learned trial Court in the case stemming from FIR No.01 dated 03.01.2018. As such, he deserves to be prosecuted under Section 229-A IPC, considering he has violated the conditions imposed on him while bail was granted.

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 FIR(supra) was registered on 20.05.2022, while the order declaring the petitioner to be a Proclaimed Offender was passed on 18.04.2019. A just adjudication of the same study of Section 229A IPC and Section 468 Cr.P.C. is called for, which is reproduced below:

Section 229A, IPC

Failure by person released on bail or bond to appear in court.—

*Whoever having been charged with an offence and released on bail or on bond without sureties, fails without sufficient cause (the burden of proving which shall lie upon him), to appear in court in accordance with the terms of the bail or bond, shall be punished with imprisonment of either description for a term which may extend to **one year**, or with fine, 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 229A IPC is punishable with sentence upto 01 year, Section 468(2)(b) Cr.P.C. would come into action. Accordingly, the limitation period for proceeding against the petitioner would be 01 year. The FIR(supra) has been registered on the basis of the order dated 18.04.2019 declaring the petitioner to be a Proclaimed Offender, i.e. after a



delay of about 02 years. No reason whatsoever has come forth explaining the said delay, therefore, the registration of FIR(supra) is barred by limitation.

8. In view of the above discussion, the present petition is allowed and FIR No.78 dated 20.05.2022 registered under Section 229A IPC at Police Station City-II, Malerkotla 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

Neha

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