



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-20795-2024 (O&M)
DECIDED ON: 10.07.2025

AMARJIT SINGH

.....PETITIONER(S)

VERSUS

STATE OF PUNJAB AND ANR.

.....RESPONDENT(S)

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. S.S. Rana, Advocate for the petitioner(s).

Mr. Sandeep Singh, AAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. Prayer

The jurisdiction of this court has been invoked under Section 482, Cr.P.C for quashing of FIR No. 60 dated 07.05.2017 under section 295A, 511 IPC and further challan dated 03.01.2020 attached as Annexure-P 2 submitted for committing offence under Section 298 IPC after deleting offence 295-A, 511 IPC vide rapat no. 42 dated 01.01.2020 and subsequent proceedings arising therefrom, registered at PS Balachour, Distt SBS Nagar being illegal and against the process of law being beyond the period of limitation.

2. Brief facts:

The present case arises from a complaint lodged by the Respondent no. 2 alleging that on 07.05.2017, while he was at the office of

the DSP along with others, the petitioner entered into an argument with him. It is alleged that during the altercation, the petitioner threatened to cut the complainant's beard, attempted to catch it, and used abusive language, causing humiliation to the respondent no. 2. Initially, the FIR was registered under Sections 295-A and 511 IPC. However, upon obtaining a legal opinion from the District Attorney, the offence was found to fall under Section 298 IPC, and Sections 295-A and 511 IPC were deleted. Consequently, the challan was filed after an inordinate delay of 2 years and 8 months before the Learned Trial Court under Section 298 IPC on 03.01.2020 attached herein as Annexure P2. The petitioner has now approached this Hon'ble Court seeking quashing of the FIR on the grounds of inordinate delay of eight years, resulting in undue humiliation, and further contending that the cognizance of the alleged offence is barred by limitation under Section 468 of the Code of Criminal Procedure.

3. Contentions:

On behalf of the Petitioner

Learned counsel for the petitioner submits that the petitioner has been roped into a false and fabricated FIR which has been motivated by the existing civil dispute between the respondent no. 2 and the parents of petitioner. The bare perusal of the FIR clearly shows that no offence can be made put against the petitioner.

The counsel would further aver that the alleged occurrence took place on 07.05.2017 pursuant to which the FIR was registered but the challan was presented with an unexplained and inordinate delay on 03.01.2020 and after filing of the challan. Moreover, despite the lapse of considerable time no further proceedings in the Trial court have taken place in as much as even the charges are yet to be framed.

It is contended that the delay of 2 years and 8 months in filling of the challan has rendered the FIR infructuous as the bar of limitation has been triggered and now the magistrate is now legally precluded from taking cognizance of the same as provided under Section 468, CrPC. Therefore continuation of the present case would amount to abuse of law and unwarranted harassment to the petitioner and it is unsustainable in law and ought to be quashed. The counsel for the petitioner has placed reliance in the Supreme Court case '*Mrs. Sarah Mathew vs The Institute of Cardio Vascular Disease 2014 Vol. 1 RCR 590*'.

On behalf of State

Learned counsel for the State vehemently opposes the prayer made by the petitioner for quashing of the FIR, asserting that the allegations levelled against the petitioner carry serious implications on the rights and dignity of respondent no. 2. It is contended that the petitioner, by using abusive and derogatory language within the premises of the DSP Office, not only defamed the respondent no. 2 but also wilfully hurt his religious sentiments and his identity, thereby giving rise to a cognizable offence warranting prosecution under relevant penal provisions.

Moreover, it is submitted that mere procedural lapses in the investigation or delay in filing of the challan cannot be a ground to stifle legitimate prosecution, particularly where the offence is serious in nature and touches upon matters of personal dignity. The State places reliance on the well-established principle that '*procedure is the handmaid of justice and not its mistress*', and that technicalities should not be permitted to frustrate the course of justice, especially when a prima facie case is made out and the investigation is yet to unfold the complete truth. He later furthered that

provisions of Section 468 must be read reasonably by construing that the action must be taken by the complainant of filing a complaint or taking appropriate proceedings in a competent Court of Law. Once the complainant takes such action, he cannot be penalized or non-suited for some act/omission on the part of the Court in not taking cognizance. It was submitted that taking of cognizance was within the domain of the Magistrate and not within the power, authority or jurisdiction of the complainant and the act of Court cannot adversely or prejudicially affect a party to a litigation.

Thus, in view of the seriousness of the allegations and the public nature of the offence, the present petition seeking quashing of the FIR is devoid of merit and does not warrant interference by this Court in exercise of its jurisdiction under Section 482 of the Cr.P.C.

4. Analysis:

Be that as it may, it is well entrenched in criminal jurisprudence that Section 482 of the Code of Criminal Procedure, 1973, preserves the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under the Code, to prevent abuse of the process of any Court, or to otherwise secure the ends of justice. Though not derived from any express provision, these powers are inherently vested in the High Court and are to be invoked with great caution, and only in exceptional circumstances where interference becomes imperative to avert a miscarriage of justice.

In the facts and circumstances of the present case, it is evident that the continuation of the criminal proceedings against the petitioner constitutes a manifest abuse of the process of law. Despite the lapse of over eight years since the registration of the FIR, the matter has remained at the stage of filing of challan, with no charges having been framed till date. The

protracted pendency of the proceedings, without any substantial progress, has subjected the petitioner to harassment, and prejudice, thereby infringing upon his fundamental right to a fair and expeditious trial as guaranteed under Article 21 of the Constitution of India.

This Court is mindful of the settled position in law that the inherent powers of the High Court under Section 482 of the Code of Criminal Procedure, 1973, must be exercised sparingly and with circumspection to secure the ends of justice. However, in a case such as the present, where the machinery of criminal law is allowed to operate in a manner that results in prolonged and unjustified hardship to an individual without any discernible prosecutorial progress, such power must necessarily be invoked.

As regards the contention advanced by learned counsel for the petitioner pertaining to the expiration of the period of limitation as prescribed under criminal law is concerned, in this context, it becomes apposite to examine the law relating to limitation in criminal jurisprudence. The general rule of criminal justice is that "a crime never dies". The principle is reflected in the well-known maxim *nullum tempus aut locus occurrit regi* (lapse of time is no bar to Crown in proceeding against offenders). The Limitation Act, 1963 does not apply to criminal proceedings unless there are express and specific provisions to that effect. It is settled law that a criminal offence is considered as a wrong against the State and the Society even though it has been committed against an individual. Normally, in serious offences, prosecution is launched by the State and a Court of Law has no power to throw away prosecution solely on the ground of delay. Mere delay in approaching a Court of Law would not by itself afford a ground for dismissing the case though it may be a relevant circumstance in reaching a final verdict.

At the same time, however, ground reality also cannot be ignored. Mere delay may not bar the right of the 'State' in prosecuting 'criminals'. But it also cannot be overlooked that no person can be kept under continuous apprehension that he can be prosecuted at 'any time' for 'any crime' irrespective of the nature or seriousness of the offence. "People will have no peace of mind if there is no period of limitation even for petty offences".

The object of introduction of Chapter XXXVI of the Cr.P.C. is captioned as 'Limitation for Taking Cognizance of Certain Offences' was to serve larger interest of administration of criminal justice keeping in view the interest of the accused and the interest of prosecuting agencies. To prevent the prejudice that will be caused to the accused if benefit of delay in taking cognizance is not given to them as held by the Supreme Court in ***State of Punjab v. Sarwan Singh, (1981) 3 SCR 349 : AIR 1981 SC 1054***, this Court stated:

"The object which the statutes seek to subserve is clearly in consonance with the concept of fairness of trial as enshrined in Article 21 of the Constitution of India. It is, therefore, of the utmost importance that any prosecution, whether by the State or a private complainant must abide by the letter of law or take the risk of the prosecution failing on the ground of limitation".

The petitioner has alleged that the magistrate is barred from taking cognizance after expiry of limitation period as laid under Section 468, Cr.PC, the court finds it apposite to discuss the relevant legal conjunctions involved and the same has been reproduced as below:

'Section 468. 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.

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.*

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.'

Bearing in mind the above fundamental principles, it is clear that the purpose of the section 468 Cr.P.C. is solely to provide protection to the accused from unnecessary and prolonged humiliation and harassment in the process of investigation. Admittedly in the instant case, the offence was alleged to have been committed by the accused on 07.05.2017 and the FIR was filed on the same day. It was punishable under Section 298, IPC. It is not in dispute that after filing of challan on 03.01.2020 till date no further proceedings in trial Court has taken place inasmuch as even the charges are yet to be framed. Moreover, the learned Magistrate has not taken cognizance of the offence yet even after almost 8 years. Concededly, the period of limitation for an offence punishable under Sections 298, IPC is three years and hence, it was barred under Section 468 of the Code if the material date is taken to be the date of cognizance by the Magistrate. The accused has a fundamental right to speedy trial which is a facet of Article 21 of Constitution of India. Therefore, it is the duty of the courts to take cognizance within a

prescribed time-frame. If the court fails to do so, it is not open to it to take cognizance of such offence as it might prejudice the right of the accused. Therefore, no cognizance can be taken after the period of limitation.

Moreover this court cannot ignore the fact that the petitioner has already been subjected to enough unnecessary humiliation and harassment due to the inordinate delay caused by the investigating authorities and since the accused is also a subject of the state, that court has been placed with responsibility to protect the fundamental rights of the petitioner.

It is no longer *res integra* that the fundamental concept of the criminal jurisprudence is to ensure speedy trial. It has been repeatedly reiterated that the right to speedy trial is enshrined in Article 21 of the Constitution of India. The speedy trial would cover in its sweep investigation, trial, appeal etc. i.e. everything starting with the accusation and expiring with the final verdict of the last Court. No citizen can be deprived of his liberty under a procedure which is not reasonable, fair or just, such deprivation would be violative of Article 21 of the Constitution of India.

The Seven Judges Bench of Hon'ble Supreme Court in '***Maneka Gandhi Vs. Union of India and Another 1978(1) SCC 248***' has articulated the protection enshrined under [Article 21](#) of the Constitution of India and has held that [Article 21](#) confers a fundamental right on every citizen and not to be deprived of his life or liberty except according to the procedure established by law and such procedure is not merely some semblance of procedure but such procedure must be reasonable, fair. The right to speedy trial undoubtedly flow from this concept of fairness. It was observed that any procedure which does not ensure a reasonably quick trial, it would fall foul of Article 21 and the right to speedy trial is an integral and essential part of fundamental right to

life and liberty enshrined in Article 21 of the Constitution of India. Moreso, reference can also be made to the Supreme Court judgement in '***P.Ramachandra Rao Vs. State of Karnataka 2002(4) SCC 578***'. Relevant paragraph is reproduced in this regard:-

"No person shall be deprived of his life or his personal liberty except according to procedure established by law declares [Article 21](#) of the Constitution. Life and liberty, the words employed in shaping [Article 21](#), by the Founding Fathers of the Constitution, are not to be read narrowly in the sense drearily dictated by dictionaries; they are organic terms to be construed meaningfully. Embarking upon the interpretation thereof, feeling the heart-throb of the Preamble, deriving strength from the Directive Principles of State Policy and alive to their constitutional obligation, the Courts have allowed [Article 21](#) to stretch its arms as wide as it legitimately can. The mental agony, expense and strain which a person proceeded against in criminal law has to undergo and which, coupled with delay, may result in impairing the capability or ability of the accused to defend himself have persuaded the constitutional courts of the country in holding the right to speedy trial a manifestation of fair, just and reasonable procedure enshrined in [Article 21](#). Speedy trial, again, would encompass within its sweep all its stages including investigation, inquiry, trial, appeal, revision and re-trial in short everything commencing with an accusation and expiring with the final verdict the two being respectively the terminus a quo and terminus ad quem- of the journey which an accused must necessarily undertake once faced with an implication."

In addition to the aforementioned considerations, this Court is also mindful of the surrounding circumstances which lend credence to the petitioner's contention that the present FIR may have been registered with a malafide intent, as a counterblast to the ongoing civil litigation between the petitioner's parents and respondent No. 2. It has been brought on record that during the tenure of respondent No. 2 as Sarpanch, he allegedly derived undue

pecuniary advantage by fraudulently obtaining pension benefits by misrepresenting his daughter as a person with disability an act that subsequently came to light upon the petitioner's father assuming office as Sarpanch. These factual assertions, which remain uncontroverted on record, indicate a strong likelihood of personal animosity and vendetta forming the substratum of the criminal proceedings. In light of the foregoing, the possibility of the impugned FIR being a product of malice and instituted with an oblique motive cannot be ruled out, and the Court cannot remain oblivious to the likelihood of misuse of criminal process in furtherance of a private grudge.

The court is of the view that the case in hand is not a case of grave magnitude and diabolic in nature which shocks the conscience of the society to prevent this Court from exercising its inherent jurisdiction under Section 482 of Cr.P.C. The Investigating Agency cannot be allowed to perpetuate illegal inaction and inflict more misery on the petitioner in violation of his right to life and liberty under Article 21 of the Constitution of India. Therefore, this Court is of the considered opinion that this is a fit case to exercise its powers under Section 482 of Cr.P.C. to put an end to indefinite and protracted investigation pending for more than 8 years.

5. Relief

Therefore, it is manifest that continuation of the proceedings amounts to gross abuse of the process of law. Despite the lapse of more than eight years, charges have not been framed, and the petitioner has been subjected to prolonged mental agony and harassment without any meaningful progress in the trial. Such undue delay not only offends the petitioner's fundamental right to a fair and speedy trial enshrined under Article 21 of the



Constitution of India but also reflects an abuse of criminal process. This Court is, therefore, of the considered view that the present matter warrants exercise of inherent jurisdiction under Section 482 Cr.P.C., in order to secure the ends of justice and to put an end to a proceeding that has lost its purpose and is causing unwarranted prejudice to the petitioner. Accordingly, the FIR in question and all consequential proceedings arising therefrom are hereby quashed.

10.07.2025
anuradha (a)

(SANDEEP MOUDGIL)
JUDGE

<i>Whether speaking/reasoned</i>	<i>:Yes/No</i>
<i>Whether reportable</i>	<i>:Yes/No</i>