



CRM-M-22118-2025

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

CRM-M-22118-2025(O&M)**Date of decision: 28.04.2025****Sukhdeep Singh@ Suryavir Singh****...Petitioner****v/s****State of Punjab & Another****...Respondents****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Mr. S.K.Verma, Advocate
for the petitioner.

Mr. Subhash Godara, Addl. AG Punjab.

**********HARPREET SINGH BRAR J.(ORAL)**

1. Present petition has been filed under Section 528 of BNSS filed by the petitioner for quashing of the FIR bearing no. 0259 dated 24.08.2020 under Section 52-A of The Prisons Act, 1894, registered at Police Station Tripri Patiala, District Patiala as well as all the consequential proceedings arising there from.
2. The facts leading to the registration of FIR(supra) are that on 24.08.2020 a letter was sent by Kuldeep Singh, Assistant Superintendent, Central Jail, Patiala, in the police station for taking action against petitioner. It is alleged against the petitioner that a mobile phone make Samsung Color golden IMEI no. 353699/11/643165/3 with battery and without SIM card was recovered during search of his cloths on 24.08.2020 and police registered the FIR(supra) under section 52-A of The Prisons Act, 1894, which is punishable for a term not exceeding one year or with fine not exceeding Rs. 25,000/-.
3. Learned counsel for the petitioner has taken a specific ground that no Court can take cognizance of an offence beyond the period of limitation provided under Section 514(1) of Bhartiya Nagarik Suraksha Sanhita, 2023 (Sec-



tion 468 of Cr.P.C.). In the instant case, the incident occurred on 24.08.2020 and till date the challan has not been filed, therefore, as per the provisions contained in Section 514(1) of BNSS (earlier Section 468 of Cr.P.C.), learned trial Court cannot take cognizance of the same. Further contends that, Section 52-A of the Act is punishable for a term not exceeding one year or with fine not exceeding rupees twenty five thousand. Since, as per sub Section (2)(b) of Section 514, BNSS, the period prescribed for taking cognizance of the offence punishable with imprisonment for a term not exceeding one year is one year, which has already expired on 25.08.2021. Therefore, in view of the provisions of the section 514 of BNSS, court cannot take cognizance in FIR(supra) being barred by limitation, and is liable to be quashed.

4. Per contra, learned State Counsel opposes the petition, contending that the delay in filing the challan is procedural and not deliberate. It is submitted that the recovery of a mobile phone from the petitioner, an inmate, is a serious offence affecting prison discipline, and procedural delays cannot defeat the case on merits. It is further argued that Section 514 of BNSS (earlier Section 468 Cr.P.C.) is inapplicable, as the limitation period is to be computed from the date of filing the FIR, not from the date of cognizance. Since the FIR was promptly registered on the date of occurrence, there is no bar of limitation. Thus, no ground for quashing the FIR is made out.

5. Having heard the learned counsel for the parties and after perusing the record it transpires that undisputedly the FIR was lodged on 24.08.2020 (Annexure P-1). With regard to the invocation of Section 514(1) BNSS (earlier Section 468 Cr.P.C.), the argument advanced by the learned counsel for the petitioner is liable to be rejected. The Constitution Bench of the Hon'ble Supreme



Court in *Sarah Mathew Vs. Institute of Cardio Vascular Disease and Others 2014(14) RCR 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. Since the FIR (*supra*) was registered on the same day as the date of the occurrence, Section 468 of Cr.P.C. cannot come to the aid of the petitioner.

6. 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:

- (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?*
- (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: -

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. stateofA.P.,



(2003)8SCC559] which is followed in *Japani Sahoo [Japani Sahoo v. Chandra Sekhar Mohanty, (2007)7SCC394]* 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 468CrPC, 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. In view of the above discussion, it is clear that the petitioner's reliance on the provisions of Section 514 of BNSS is misplaced. The FIR was registered immediately after the occurrence, and as per the settled principles of



law, the limitation period is to be computed from the date of filing of the complaint or institution of prosecution, not from the date of taking cognizance. Since no procedural illegality or bar of limitation is established, and considering the seriousness of the allegations, there is no justification for quashing the FIR or subsequent proceedings. Accordingly, the present petition is dismissed.

8. All the pending miscellaneous application(s), if any, shall stand disposed of.

April 28, 2025
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

(i)	Whether speaking/reasoned	Yes/No
(ii)	Whether reportable	Yes/No