



CRM-M-33909-2024

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

CRM-M-33909-2024

Date of Decision: 05.03.2025

Kuldeep Singh

..... Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Sukhmeet Singh, Advocate, for the petitioner.

Rajesh Bhardwaj, J. (ORAL)

1. Prayer in the present petition is for quashing of the order dated 05.10.2023 passed by learned JMIC, Faridkot, in a case FIR No.69 dated 10.05.2016, under Section 279, 304-A, 427 IPC, at Police Station City Kotkapura, District Faridkot, vide which the application moved by prosecution for condonation of delay in filing the challan has been allowed and judgment dated 29.02.2024 passed by learned Sessions Judge, Faridkot in Crl. Revision No.94 of 10.11.2023 titled as Kuldeep Singh vs. State, vide which revision petition filed by the petitioner has been dismissed.

2. FIR in the present case was lodged on the statement of Gurmail Singh. On the registration of the FIR, the investigation commenced. On completion of the investigation, challan was presented by the Investigating Agency on 04.12.2020. The prosecution filed an application seeking extension in the period of limitation for presenting the challan, which was opposed by the petitioner. However, after hearing both the sides, learned trial Court accepted the same vide impugned order dated 05.10.2023. Aggrieved by the same, the petitioner assailed the same by way of filing criminal revision before learned Revisional Court. However, learned



Revisional Court on hearing both the sides, finding no infirmity in the order passed by learned trial Court, dismissed the revision petition vide order dated 29.02.2024. Thus, upheld the order passed by learned trial Court. Aggrieved by the orders passed by both the trial Court and the Revisional Court, the petitioner is before this Court by way of filing the present petition.

3. Learned counsel for the petitioner has precisely submitted that FIR in the present case was lodged on 10.05.2016 and admittedly, the Investigating Agency filed the challan on 04.12.2020. He submits that as per the provisions of Section 468 Cr.P.C, limitation for taking cognizance in the present case was three years, however, admittedly when the occurrence had taken place in the year 2016, the Court could not have taken cognizance of the offence alleged beyond the period of three years. He submits that both the trial Court and the Revisional Court have miserably failed to appreciate the same and thus, the impugned orders are unsustainable in the eyes of law.

4. After hearing learned counsel for the petitioner and perusing the record, it is deciphered that FIR in the present case was registered on 10.05.2016, however, the challan was presented by the Investigating Agency on 04.12.2020. Application was filed by the prosecution seeking extension of limitation in filing the challan. For resolving the issue raised in the present case, appreciation of provisions of Sections 468 and 473 Cr.P.C. are relevant, which are 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.]

473. Extension of period of limitation in certain cases.-

Notwithstanding anything contained in the foregoing provisions of this Chapter, any Court may take cognizance of an offence after the expiry of the period of limitation, if it is satisfied on the facts and in the circumstances of the case that the delay has been properly explained or that it is necessary so to do in the interests of justice.”

5. The conjoint reading of both the provisions would reveal that there is no dispute regarding the bar on taking cognizance after lapse of limitation, however, the legislature had specifically enacted the provisions of Section 473 Cr.P.C. which provides jurisdiction to the Court for the extension of period of limitation. Learned trial Court finding the existence of requisite conditions had exercised its power under Section 473 Cr.P.C. It was observed that it was because of the absence of the petitioner/accused in the case, there occurred a delay in conclusion of the investigation and thus, also in presenting the challan within the statutory period as provided under Section 468 Cr.P.C also. Thus, the Court while exercising its power under Section 473 Cr.P.C. found the case to be suitable for extending the



limitation. Learned Revisional Court also re-appreciated the case and found no infirmity in the order of learned trial Court.

6. Hon'ble Supreme Court in Vanka Radhamanohari vs. Vanka Venkata Reddy and others, (1993) 3 SCC 4, has explained insertion of Chapter XXXVI in Cr.P.C. and that of Section 473 Cr.P.C., and has observed as under:-

“In view of Section 473 a court can take cognizance of an offence not only when it is satisfied on the facts and in the circumstances of the case that the delay has been properly explained, but even in absence of proper explanation if the court is satisfied that it is necessary so to do in the interests of justice. The said Section 473 has a non-obstante clause which means that said section has an overriding effect on Section 468, if the court is satisfied on the facts and in the circumstances of a particular case, that either the delay has been properly explained or that it is necessary to do so in the interests of justice.

7. Dealing with the object of Chapter XXXVI of the Cr.P.C. and Section 473 contained therein, the Apex Court in Arun Vyas & another vs. Anita Vyas , (1999) 4 SCC 690, has observed as under:-

"11. It may be noted here that the object of having Chapter XXXVI in Cr.P.C. is to protect persons from prosecution based on stale grievances and complaints which may turn out to be vexatious. The reason for engrafting rule of limitation is that due to long lapse of time necessary evidence will be lost and persons prosecuted will be placed in a defenceless position. It will cause great mental anguish and hardship to them and may even result in miscarriage of justice. At the same time it is necessary to ensure that due to delays on the part of the investigating and prosecuting agencies and the application of rules of limitation the criminal justice system is not rendered toothless and ineffective and perpetrators of crime are not placed in advantageous position. The Parliament obviously taking note of various aspects, classified offences into two categories, having regard to the gravity of offences, on the basis of the punishment prescribed for them. Grave offences for which punishment prescribed is imprisonment for a term exceeding three years are not brought within the ambit of Chapter XXXVI. The period of limitation is prescribed only for offences for which punishment specified is imprisonment for a

term not exceeding three years and even in such cases wide discretion is given to the Court in the matter of taking cognizance of an offence after the expiry of the period of limitation. Section 473 provides that if any Court is satisfied on the facts and in the circumstances of the case that the delay has been properly explained or that it is necessary so to do in the interests of justice, it may take cognizance of an offence after the expiry of the period of limitation. This section opens with a non obstante clause and gives overriding effect to it over all the other provisions of Chapter XXXVI."

8. On the appreciation of the arguments advanced in the light of the statutory provisions and the law settled, this Court does not find any infirmity in the impugned orders passed and thus the present petition being devoid of any merit is hereby dismissed.

05.03.2025 sharmila	(RAJESH BHARDWAJ)	
	JUDGE	
	Whether Speaking/Reasoned	: Yes/No
	Whether Reportable	: Yes/No