

2025:PHHC:069048



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

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CRM-M-59768-2024

Date of Decision: 04.04.2025

KARAM CHAND

.....PETITIONER

VERSUS

THE STATE OF PUNJAB AND ANOTHER

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. H.S.Saini, Advocate for the petitioner

Mr. Jaspal Singh Guru, AAG, Punjab

SANDEEP MOUDGIL, J

1. The jurisdiction of this court has been invoked under section 582 BNSS for quashing of case FIR No. 89 dated 23.09.2016 registered under sections 447,427,506,148, 149 IPC registered at Police Station Naya Gaon, District SAS Nagar, (Annexure P-1) and all other subsequent proceedings arising therefrom.

2. Counsel for the petitioner contends at the very outset that the present dispute is of civil nature between the respondent no. 2 and one Surjit Singh, over a boundary wall which is completely given a criminal colour by falsely implicating the petitioner who is a labourer (who was only driving JCB machine) and has not been attributed any specific role in the instant FIR which got registered 23.09.2016.

3. He further contends that allegations of the alleged occurrence includes punishment of maximum three years under section 447 IPC or fine of Rs.500/- or both and even after lapse of more than 8 years and 2 months, the Hon'ble court has failed to take the cognizance of the alleged offence therefore in view of section 468 Cr.P.C./ 514 BNSS , the present proceedings against the petitioner becomes time barred.

4. Counsel for the petitioner vehemently argues that the fact of the registration of FIR came to his knowledge only when he had applied for issuance of passport in the month of August 2024 and the police verification report was submitted by the police (Annexures P-2 and P-3) to the Passport Authorities with respect to the instant FIR which was stated to be under investigation but as a matter of fact, since the registration of FIR, the petitioner has not been called for any kind of investigation which him unaware of the present case against him.

5. Per contra, learned state counsel contends that in the instant FIR, the petitioner and co-accused Bhinder Singh were formally arrested and subsequently released on bail however, Surjit Singh Sarpanch did not join the investigation or inquiry and was only formally arrested and released on 06.01.2025 wherein the investigation is still going on.

6. He further contends that once the complaint has been filed within the period of limitation, the subsequent delay in filing the final report by the investigating agency would not attract the bar under section 468 Cr.P.C/514 BNSS. The mandate under this section applied to cases where private complaints or statutorily required complaints are filed before a Magistrate. However, this mandate does not apply when a crime is reported to police and an FIR is registered.

7. He strenuously argues that under the entire procedural law, no provision renders an investigation time barred and indeed section 468 Cr.P.C/514 BNSS aims to prevent stale claims by prescribing a time limit for taking cognizance of offences based on their severity.

8. Heard learned counsel for the respective parties at length.

9. The instant case pertains to the fact that Respondent no.2 filed a complaint regarding unlawful demolition of the boundary wall of his house, which stood for approximately 40 years wherein there is no dispute with respect to the boundary in question. It has been alleged that on 23.09.2016, a group of individuals including Surjit Singh Sarpanch and his two brothers along with approximately 100 armed men carrying iron rods demolished the concrete boundary wall issuing threats and loud *lalkara* and as a result respondent no.2 attempted to protest the demolition, but the group attacked his family with the JCB machine and iron rods.

10. From the meticulous perusal of the record in hand, it is worthwhile to mention that nowhere in the FIR it has been mentioned that the petitioner was specifically involved in the alleged occurrence. His role only restricts to the fact he was driving a hired JCB machine and there is no iota of evidence either in the FIR or in the investigation report (which has not been submitted yet) to show that the petitioner has been actively involved in the alleged occurrence.

11. Further, the FIR stands registered on 23.09.2016 and upto August 2024, the petitioner was unaware about the same FIR being registered against him since for long 8 years, no investigation was initiated against him which raises suspicion on the conduct of the State authorities who apparently have been in slumber since good 8 years. Therefore, as a result of lapse and

unexplained inordinate delay on the part of concerned state authorities, the petitioner cannot be allowed to suffer for the wrong which has not been proved against him for the last 8 years wherein not even the investigation has been initiated.

12. The Apex court in “***Paramjeet Batra vs State of Uttrakhand & ors(2013) 11 SCC 673***” has held that dispute of civil nature to be considered and weighed by High Court under Section 482 Cr.P.C to be used sparingly and only for the purpose of preventing abuse of process of any court or otherwise to secure ends of justice whether a complaint discloses a criminal offence or not depend upon the nature of facts alleged whether essential ingredients of criminal offence are present or not has to be judged by the High Court.

Relevant para is reproduced herein below:-

7. While exercising its jurisdiction under Section 482 of the Code the High Court has to be cautious. This power is to be used sparingly and only for the purpose of preventing abuse of the process of any court or otherwise to secure ends of justice. Whether a complaint discloses a criminal offence or not depends upon the nature of facts alleged therein. Whether essential ingredients of criminal offence are present or not has to be judged by the High Court. A complaint disclosing civil transactions may also have a criminal texture. But the High Court must see whether a dispute which is essentially of a civil nature is given a cloak of criminal offence. In such a situation, if a civil remedy is available and is, in fact, adopted as has happened in this case, the High Court should not hesitate to quash criminal proceedings to prevent abuse of process of court.

13. Further, the Apex Court in “***Chanchalpati Das Vs The State of West Bengal, 2023 AIR (Supreme Court) 2710***” has held that inordinate delay in itself may not be a ground for quashing of criminal complaint however,

unexplained inordinate delay must be considered as a crucial factor and a ground for quashing criminal complaint. The relevant para is reproduced herein below:-

*“13. It cannot be gainsaid that the High courts have power to quash the proceedings in exercise of powers under section 482 Cr.P.C,1973 to prevent the abuse of process of any court or otherwise to secure the ends of justice. Though the powers under section 482 should be sparingly exercised and with great caution, the said powers ought to be exercised if a clear case of abuse of process of law is made out by the accused. In the **State of Karnataka Vs L.Muniswamy and Ors(1977)2 SCC 699** had held that the criminal proceedings could be quashed by the High Court under Section 482 if the court is of the opinion that allowing the proceedings to continue would be an abuse of the process of the court or that the ends of justice require that the proceedings are to be quashed.*

17. In the light of aforestated legal position, if the facts of the case are appreciated, there remains no shadow of doubt that the complaint filed by the respondent-complainant after an inordinate unexplained delay of eight years was nothing but sheer misuse and abuse of the process of law to settle the personal scores with the appellants, and that continuation of such malicious prosecution would also be further abuse and misuse of process of law, more particularly when neither the allegations made in the complaint nor in the chargesheet, disclose any prima facie case against the appellants. The allegations made against the appellants are so absurd and improbable that no prudent person can ever reach to a conclusion that there is a sufficient ground for proceeding against the appellant-accused.”

14. The allegations in the instant FIR are made in an omnibus or absurd manner therefore the court while exercising its extra-ordinary

jurisdiction can neither undertake to conduct a mini trial nor can allow the petitioner to suffer for the delay on the part of the state authorities.

15. Since the instant case involves general allegations in the instant FIR and the petitioner role has not been specifically mentioned in the FIR added with the fact that even after eight years of registration of FIR, no investigation has been initiated against the petitioner therefore in the light of above stated discussion and ratio of the Apex court in Paramjit Batra and Chanchalpati Das's case (supra), the instant FIR No.89 dated 23.09.2016 (Annexure P-1) all subsequent proceedings arising therefrom is hereby quashed qua the petitioner. .

16. Ordered accordingly.

04.04.2025

Poonam Negi

(SANDEEP MOUDGIL)
JUDGE

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