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**IN THE HIGH COURT OF DELHI AT NEW DELHI**

CRL.M.C. 1170/2017 & CRL.M.A. 7270/2016

ASHUTOSH

.....Petitioner

Through: Dr. Ashutosh, Mr. Dilip Singh, Mr. Ashish Chauhan and Ms. Monal, Advocates.

versus

THE STATE

.....Respondent

Through: Mr. Shoaib Haider, APP for the State with SI Robin Khatana, P.S.Moti Nagar. Mr. R.K.Naroola, Mr. Udayan Mukherji, Ms. Jaya Pahwa, Ms. Bhavika Kohli, Ms. Ria Jain, Ms. Tanya Vats and Mr. Sagar, Advocates for R-2/Complainant along with Complainant in person.

**CORAM:**

**HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA**

**ORDER**

**30.01.2025**

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1. Petition under *Articles 226 and 227 of the Constitution of India* read with *Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as "Cr.P.C")* has been filed on behalf of the Petitioner/Accused- Ashutosh for quashing the FIR No.121/2011 under *Section 323/341/34 of the Indian Penal Code, 1860 (hereinafter referred to as "IPC")*, P.S. Moti Nagar on the ground that it has been filed beyond limitation.

2. It is submitted in the Petition that there were cross cases filed *inter-se* the parties. The FIR No.121/2011 under *Section 323/341/34 of IPC* was registered on 09.05.2011; however, the Chargesheet has been filed only on 29.05.2012 i.e. beyond the period of one year as prescribed under *Section 468 of Cr.P.C*. It is, therefore submitted that the Cognizance itself is bad in law and the Chargesheet is liable to be quashed.

3. *Learned Additional Public Prosecutor* submits that the delay in filing of Chargesheet had been condoned by the learned MM *vide* Order dated 08.01.2014. Learned M.M had clarified in the Order dated 08.01.2014 that the Order of Cognizance has attained finality as it was never challenged before



any competent forum and thus, the contention of the accused that the Cognizance was bad in law is not tenable and the charges were directed to be framed. It is, therefore, evident that the delay has been duly condoned as is envisaged under *Section 468* of Cr.P.C, therefore, there is no ground for quashing of FIR or the Chargesheet.

4. *Learned counsel on behalf of the Respondent No.2/Complainant* has submitted that delay, if any was only on account of the conduct of the Petitioners who did not cooperate during the investigations leading to delay and they cannot benefit from their own wrong. Furthermore, there was delay of only 20 days in filing the Chargesheet which also has been condoned by the learned Trial Court. Therefore, there is no merit in the present Petition.

5. *Learned counsel for the Complainant* has relied on *Sarah Mathew and Ors. vs. Institute of Cardio Vascular Diseases by its Director K.M.Cherian and Ors.* MANU/SC/1210/2013; *Rajitram Shukla and two Ors vs. State of U.P and Anr.* MANU/UP/3218/2021; *Sukhpal Singh Khaira vs. State of Punjab and Ors.* CRM-M-28821/2022; *Sukhdev Raj vs. State of Punjab.* 1994 SCC Crl.1480; *R.V.Kunhiraman vs. Inspector of Police, S.P.E, C.B.I, Cochin.* 1998 Crl.L.J.3679 (Ker.) and *Sulochana Vs. State Registrar of Chits Madras.* 1978 Crl.L.J.116.

6. **Submissions Heard. Record perused.**

7. Section 468 of Cr.P.C categorically provides 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.] [Inserted by Act of 1978, Section 33 (w.e.f. 18-12-1978).]

8. The Chargesheet was filed for Offence under Section 323 of IPC, 1860 which prescribes a maximum of one year sentence. The offence under Section 341 of IPC is punishable by one month. ***The maximum sentence for the offences, therefore, was one year for which the limitation prescribed is one year.***

9. Admittedly, Chargesheet has been filed on 29.05.2012 i.e. 20 days beyond the period of limitation.

10. No Application, whatsoever, was filed by the State for condonation of delay.

11. In the case of Surinder Mohan Vikal vs. Ascharaj Lal Chopra, (1978) 2 SCC 403 the Apex Court held as under:

“It would thus appear that the Appellant was entitled to the benefit of sub-section (1) of Section 468 which prohibits every court from taking cognizance of an offence of the category specified in sub-section (2) after the expiry of the period of limitation. It is hardly necessary to say that statutes of limitation have legislative policy behind them. For instance, they shut out belated and dormant claims in order to save the accused from unnecessary harassment. They also save the accused from the risk of having to face trial at a time when his evidence might have been lost because of the delay on the part of the prosecutor.”

12. The bar of Section 468 of Cr.P.C is absolute and in the absence of any Application for condonation at the time of taking Cognizance, such Cognizance is bad in law and, therefore, the Chargesheet along with the consequent proceedings are hereby quashed and the Petitioners are discharged.

**NEENA BANSAL KRISHNA, J**

**JANUARY 30, 2025**

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