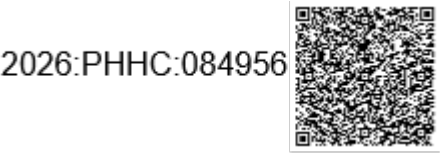


IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH



120CRM-M-25321-2013 (O&M)

Gurdev Singh... Petitioner

Vs.

State of Punjab... Respondent

1.	The date when the judgment is reserved	21.05.2026
2.	The date when the judgment is pronounced	29.05.2026
3.	The date when the judgment is uploaded on the website	29.05.2026
4.	Whether only operative part of the judgment is pronounced or whether the full judgment is pronounced	Full
5.	The delay, if any, of the pronouncement of full judgment, and reasons thereof	Not applicable

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. RVS Chugh, Advocate for the petitioner.

Ms. Ruchika Sabherwal, Sr. DAG, Punjab.

...

Manisha Batra, J. (Oral).

1. Prayer in this petition is made for quashing of order dated 23.11.2011 as passed by the Court of learned Chief Judicial Magistrate, Mansa in case arising out of FIR No.20, dated 08.09.2006, registered under Sections 7 and 13(2) of the Prevention of Corruption Act, 1988, at Police Station Vigilance Bureau, Bathinda as well as the order dated

05.04.2013 passed by the Court of learned Additional Sessions Judge, Mansa, thereby upholding the order dated 23.11.2011 and dismissing the revision petition as filed by the present petitioner.

2. Brief facts relevant for the purpose of disposal of this petition are that the present petitioner had approached the office of Vigilance Bureau Unit Mansa on 08.09.2006 and recorded his statement that an altercation had taken place between his mother Smt. Taro Bai and Preeto Bai and the latter had inflicted injuries on the person of his mother. Preeto Bai too had sustained some injuries. Though, Paramjit Kaur daughter of Preeto Bai, who was pregnant was not present on the spot of occurrence at the relevant time but by alleging that she too had sustained injuries in her abdomen by giving kick blows, she too got herself admitted in Civil Hospital, Sardulgarh. The petitioner had also gone to the same hospital for getting her mother treated but was told by Dr. R.P. Singal, who was present there that he would get his mother admitted only on getting bribe of Rs.2000/-. By further submitting that he had made false promise to Dr. R.P. Singal to pay money to get his mother admitted in the hospital, he prayed for taking action against Dr. R.P. Singal.

3. On the basis of his statement, a case bearing FIR No.20 dated 08.09.2006 was registered under Sections 7 and 13(2) of the Prevention of Corruption Act, 1988 (for short 'P.C. Act'). Investigation proceedings were initiated. The above mentioned Dr. R.P. Singal faced trial and was acquitted vide judgment dated 01.04.2009 in view of the fact that the petitioner, while appearing as a witness before the learned trial Court had

resiled from his testimony. An information was then sent to the Chief Director, Head Office, Vigilance Bureau, Punjab for taking action against the petitioner for giving false information and after receiving orders from the office of Senior Superintendent of Police, Vigilance Bureau, *Calendra* under Section 182 of I.P.C. was presented against the present petitioner to face trial on 03.11.2019. The petitioner appeared before the concerned Chief Judicial Magistrate in response to the summons. Vide order dated 23.11.2011, charge under Section 182 IPC was framed against him. Feeling aggrieved from the above mentioned order dated 23.11.2011, the petitioner filed a revision petition before the learned Additional Sessions Judge, Mansa, which was dismissed vide order dated 05.04.2013. Hence, the present petition.

4. It is argued by learned counsel for the petitioner that the impugned orders dated 23.11.2011 and 05.04.2013 respectively passed by the Court of learned Magistrate and learned revisional Court are not sustainable in the eyes of law and are liable to be set aside as while passing the same, the learned Courts below failed to appreciate the fact that the *Calendra* in this case had been prepared and presented before the Court by Sh. Narenderpal Singh, posted as DSP, Vigilance Bureau, Mansa, who had no *locus standi* to file the same in view of the mandatory requirement of the provisions of Section 195 of the Code of Criminal Procedure. It is further argued that the complaint/*Calendra* could be presented against the petitioner only by same public servant to whom the statement had been made at the time of registration of the FIR No.20 i.e.

DSP Balbir Singh and hence, on this very ground, the *Calendra* was liable to be quashed and no charge could be framed against him.

5. It is further argued that the *Calendra* was also filed beyond the period of limitation as the statement of the petitioner had recorded before the Court of learned Sessions Judge, Mansa on 08.07.2008 in FIR No.20 whereas the *Calendra* was filed only on 03.11.2009 i.e. beyond the period of one year and hence, taking cognizance thereupon, was barred under the provisions of Section 468 of Cr.P.C. It is also argued that acquittal of the accused in FIR No.20 was not only on account of statement of the petitioner but due to several other reasons and hence, the petitioner could not be prosecuted for giving a false statement in that case. It is submitted that while framing charge as against the petitioner, the learned trial Court did not take all these factors into consideration and therefore, it is, urged that the impugned orders passed by the learned Magistrate as well as revisional Court are liable to be set aside, petition deserves to be accepted and the petitioner deserves to be discharged for commission of offence punishable under Section 182 IPC.

6. Per contra, learned State counsel, while relying upon the reply has vehemently argued that statement of the petitioner had been made before the officer of the rank of DSP, Vigilance Bureau, Mansa, who had subsequently been transferred. The *Calendra* was presented by an officer of the same rank directly before the Court and hence, the bar under Section 195 of the Code was not at all attracted in this case. It is also argued that the allegations make out a *prima facie* case for commission of

offence punishable under Section 182 IPC as against the petitioner. The findings as given by the learned trial Court as well as revisional Court are well reasoned and do not warrant any interference. It is, therefore, argued that the petition being devoid of any merit, is liable to be dismissed.

7. This Court has heard the rival submissions made by learned counsel for the parties.

8. Before proceeding further into the matter, it will be apposite to set out the relevant provisions required for adjudication of the present petition. Section 182 of IPC, which is relevant for the purpose is hereby reproduced as under:

“182. False information, with intent to cause public servant to use his lawful power to the injury of another person.—

Whoever gives to any public servant any information which he knows or believes to be false, intending thereby to cause, or knowing it to be likely that he will thereby cause, such public servant—

(a) to do or omit anything which such public servant ought not to do or omit if the true state of facts respecting which such information is given were known by him, or

(b) to use the lawful power of such public servant to the injury or annoyance of any person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(c) A falsely informs a policeman that he has been assaulted and robbed in the neighbourhood of a particular village. He does not mention the name of any person as one of his assistants, but knows it to be likely that in consequence of

this information the police will make enquiries and institute searches in the village to the annoyance of the villages or some of them. A has committed an offence under this section.”

9. Section 468 of the Code of Criminal Procedure reads 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.”

10. It will also be proper to refer to Section 469 of the Code, which reads as under:

“469. Commencement of the period of limitation.

(1) The period of limitation, in relation to an offender, shall

commence, -

(a) on the date of the offence; or

(b) where the commission of the offence was not known to the person aggrieved by the offence or to any police officer, the first day on which such offence comes to the knowledge of such person or to any police officer, whichever is earlier; or

(c) where it is not known by whom the offence was committed, the first day on which the identity of the offender is known to the person aggrieved by the offence or to the police officer making investigation into the offence, whichever is earlier.

(2) In computing the said period, the day from which such period is to be computed shall be excluded. ”

11. Section 195 of the Code of Criminal Procedure reads as under:

“195. Prosecution for contempt of lawful authority of public servants, for offences against public justice and for offences relating to documents given in evidence.

(1) No Court shall take cognizance -

(a)(i) of any offence punishable under sections 172 to 188 (both inclusive) of the Indian Penal Code (45 of 1860), or

(ii) of any abetment of, or attempt to commit, such offence, or

(iii) of any criminal conspiracy to commit such offence, except on the complaint in writing of the public servant concerned or other public servant to whom he is administratively subordinate;

(b)(i) of any offence punishable under any of the following sections of the Indian Penal Code (45 of 1860), namely, sections 193 to 196 (both inclusive), 199, 200, 205 to 211

(both inclusive) and 228, when such offence is alleged to have been committed in, or in relation to, any proceeding in any Court, or

(ii) of any offence described in section 463, or punishable under section 471, section 475 or section 476 of the said Code, when such offence is alleged to have been committed in respect of a document produced or given in evidence in a proceeding in any Court, or

(iii) of any criminal conspiracy to commit, or attempt to commit, or the abetment of, any offence specified in sub-clause (i) or sub-clause (ii), [except on the complaint in writing of that Court or by such officer of the Court as that Court may authorise in writing in this behalf, or of some other Court to which that Court is subordinate.] [Substituted by Act 2 of 2006, Section 3 for "except on the complaint in writing of that Court, of of some other Court to which that Court is subordinate"]

(2) Where a complaint has been made by a public servant under clause (a) of sub-section (1) any authority to which he is administratively subordinate may order the withdrawal of the complaint and send a copy of such order to the Court; and upon its receipt by the Court, no further proceedings shall be taken on the complaint : Provided that no such withdrawal shall be ordered if the trial in the Court of first instance has been concluded.

(3) In clause (b) of sub-section (1), the term "Court" means a Civil, Revenue or Criminal Court and includes a Tribunal constituted by or under a Central, Provincial or State Act, if declared by that Act to be a Court for the purposes of this section.

(4) For the purposes of clause (b) of sub-section (1), a Court

shall be deemed to be subordinate to the Court to which appeals ordinarily lie from the appealable decrees or sentences of such former Court, or in the case of a Civil Court from whose decrees no appeal ordinarily lies, to the principal Court having ordinarily original civil jurisdiction within whose local jurisdiction such Civil Court is situate :Provided that -

(a) where appeals lie to more than one Court, the Appellate Court of inferior jurisdiction shall be the Court to which such Court shall be deemed to be subordinate;

(b) where appeals lie to a Civil and also to a Revenue Court, such Court shall be deemed to be subordinate to the Civil or Revenue Court according to the nature of the case or proceeding in connection with which the offence is alleged to have been committed. [195-A. Procedure for witnesses in case of threatening, etc. - A witness or any other person may file complaint in relation to an offence under Section 195-A of the Indian Penal Code (45 of 1860).”

12. So far as the question of limitation is concerned, under Section 468 of the Code, the period of limitation for filing a *Calendra* under Section 182 is one year because the punishment for the offence is prescribed upto 06 months or fine of Rs.1000/- or both. FIR No.20 was registered on 08.09.2006 on the basis of statement recorded by the present petitioner. Dr. R.P. Singal named as accused therein was acquitted in the above said FIR vide judgment dated 01.04.2009. While acquitting him, the fact that the present petitioner had not supported the prosecution version and had stated that the accused therein had not demanded any money from him, was taken into consideration. It is after the judgment of

acquittal as pronounced on 01.04.2009 that the authorities concerned found that the allegations made by the petitioner in his complaint were false and it is revealed from the record that the permission was sought to initiate proceedings against the petitioner and thereafter the *Calendra* was presented on 03.11.2009 i.e. after a period of 07 months from the date of pronouncement of judgment of acquittal. The date of starting limitation was 01.04.2009 and therefore, it cannot be stated that the Court of jurisdictional Magistrate was not competent to take cognizance and that the period of limitation for taking such cognizance expired. As such, argument so raised by learned counsel for the petitioner is liable to be rejected.

13. With regard to argument that the Court concerned could not take cognizance of the offence as barred by Section 195 Cr.P.C. was attracted, as per Section 195(I)(a)(i), no Court shall take cognizance of any offence punishable under Section 182 of IPC, except on the complaint in writing of the public servant concerned or of some other public servant, to whom he is administratively supporting. The *Calendra* in this case was admittedly presented by Shri Narender Pal posted as DSP at Vigilance Bureau, Mansa. At the time of registration of the FIR No.20, the petitioner had recorded his statement before Balbir Singh DSP, posted in the same office. It has come on record that on account of transfer of the above named Balbir Singh, an officer of the same rank, had filed the *Calendra* before the Magistrate. This Court finds no reason to hold that the *Calendra* was not presented before the Court concerned by the public

servant concerned because it was the designation of the concerned police official/officer which was to be taken into consideration and not the particular officer. The learned revisional Court has rightly observed that since information given by the petitioner to the same department to an officer of the rank of DSP, therefore, *Calendra* could be presented by some other officer of the same rank of the vigilance Bureau.

14. Accordingly, on considering the rival submissions of both the parties, material placed on record and on overall assessment of the facts and circumstances of the case, in my considered opinion, no illegality, infirmity or perversity is found in the impugned orders dated 23.11.2011 and 05.04.2013 respectively passed by the Courts below. Hence, the same are upheld. Resultantly, the present petition is dismissed being devoid of any merits.

29.05.2026

harjeet

Whether speaking/reasoned :
Whether reportable :

Yes/No
Yes/No

(MANISHA BATRA)
JUDGE