



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

(170)

CRM-M-14046-2026

DATE OF DECISION: 17.03.2026

Jiwan Kumar @ Jeevan Kumar

.....Petitioner

VERSUS

State of Punjab and another

.....Respondents

CORAM HON'BLE MR. JUSTICE SUBHAS MEHLA

Present Mr.J.K.Singla, Advocate,
and Ms. Suman Rani, Advocate, for the petitioner.
Mr.Surinderjit Singh Nahar, AAG, Punjab.

SUBHAS MEHLA, J (ORAL)

1. The present petition has been filed under Sections 528 read with 529 of BNSS for quashing of FIR No. 74 dated 03.08.2012, registered under Section 36(1) of the Punjab Apartment and Property Regulation Act, 1995 at Police Station Rampura, District Bathinda (Annexure P-3) and all consequential proceedings arising therefrom.

2. Learned counsel for the petitioner contends that the FIR in the present case was registered on 03.08.2012, however, the final report under Section 173 Cr.P.C. came to be presented only on 21.07.2023, i.e., after an inordinate delay of about 11 years; that such report has been filed without obtaining prior sanction from the competent authority, as mandated under Section 38(1) of the Punjab Apartment and Property Regulation Act, 1995; that as per Section 36(1) of the Act, the maximum punishment prescribed is imprisonment up to three years or fine or both, and therefore, in view of the provisions relating to limitation, the Court could not have taken cognizance of the offence after expiry of the prescribed period; that the learned trial



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Court has taken cognizance on the basis of a time-barred final report, which is impermissible in law; that the aforesaid plea regarding bar of limitation and invalid cognizance was specifically raised before the learned trial Court; however, the same has not been considered, and the impugned order is not a speaking order on this aspect.

3. Notice of motion.

4. In pursuance of advance notice, Mr.Surinderjit Singh Nahar, AAG, Punjab appeared and submitted that the petitioner is at liberty to raise all legal pleas at this stage, though such plea was not effectively urged before the learned trial Court.

5. Heard.

6. Before proceeding further, it is apposite to refer to the provisions relating to limitation and cognizance. As per the scheme of criminal law, particularly the provisions analogous to Sections 468 and 469 Cr.P.C. (now embodied in BNSS), no Court shall take cognizance of an offence after expiry of the period of limitation prescribed, which, in cases where the offence is punishable with imprisonment up to three years, is three years from the date of commission of offence or as otherwise computed in accordance with law. The question of limitation goes to the root of jurisdiction of the Court to take cognizance.

7. Further, cognizance is taken when the Court applies its mind to the offence with a view to proceed in the matter. Such cognizance must be in accordance with law and within the prescribed period of limitation unless delay is condoned by a reasoned order in terms of the relevant provisions.



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8. In the present case, the contention raised by the petitioner that the final report has been presented after an unexplained delay of 11 years and that cognizance is barred by limitation, is a substantial legal plea which required due consideration by the learned trial Court. However, a perusal of the impugned order dated 17.05.2025 reveals that the said aspect has not been dealt with, and the order does not reflect any reasoning on the issue of limitation and validity of cognizance.

9. In view of the above, without expressing any opinion on the merits of the case, the present petition is disposed of and the impugned order dated 17.05.2025 passed by the learned Judicial Magistrate Ist Class, Bathinda, is hereby set aside. The matter is remitted back to the learned trial Court with a direction to consider the plea of the petitioner regarding bar of limitation and validity of cognizance, and to pass a fresh, reasoned and speaking order in accordance with law.

17.03.2026
mamta

(SUBHAS MEHLA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No