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

01

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Reserved on 09.02.2026

Pronounced on: 11.02.2026.

DR. ASHISH MESHRAM

..... PETITIONER

VERSUS

STATE OF HARYANA

..... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Present : Mr. Surender Saini, Advocate
for the petitioner.

Ms. Shaveta Sanghi, DAG, Haryana.

SURYA PARTAP SINGH. J.

1. By invoking the extra-ordinary jurisdiction vested in this Court by virtue of Section 482 of the Code of Criminal Procedure, hereinafter being referred to as "Cr.P.C.", the present petition has been filed by the petitioner for quashing of FIR No.7 dated 04.01.2015 Police Station Kundli, District Sonipat. The above-said FIR has been lodged for the commission of offences under Sections 304-A/34 of Indian Penal Code, hereinafter being referred to as 'IPC' only,

2. In nut-shell the facts emerging from record are that the FIR of this case came into being at the instance of Rinku, hereinafter being referred to as 'complainant' only. It was stated by the above-named complainant before the



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police that his younger brother Kapil, a student of BA 2nd year had suffered a fracture in his left hand, and that he had undergone surgery in Shiva Hospital Sonepat. According to complainant, it was felt that there was a gap in the bones fixed by the doctors and therefore for the last 10 days, they were approaching the treating doctor of 'Naval Hospital Kundali' for operation of hand, and that on 03.01.2015 his brother was admitted in the hospital for surgery. It was further stated by the complainant that at the time of admission his brother was normal and he was taken into Operation Theatre at 01:00 P.M. and surgery was performed at 04:30 P.M. by a team headed by Dr. Ashish and comprised of Dr. Jogender, Dr. Nishant and staff of Operation Theatre. It was further stated by the complainant that Anesthesia to his brother was administered by Dr. Ashish, but after 15 minutes, his brother lost conscious and it was disclosed to them that he had suffered a heart problem and they were taking him to Delhi. According to complainant when his brother was being shifted to 'Jaipur Golden Hospital' he passed away on the way. It was alleged by the complainant that the death of his brother had taken place due to wrong medicines and negligent treatment given to his brother by the above-named doctors, and thus, they committed the above-mentioned offence.

3. It is the case of the prosecution that in view of above-mentioned complaint formal FIR of this case was lodged and the investigation taken up.

4. Heard.

5. It has been contended by learned counsel for the petitioner that in the present petition, seeking for quashing of FIR, the quashing has been sought on legal grounds only, without taking any ground with regard to factual matrix of the case. According to learned counsel for the petitioner a bare perusal of the

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contents of FIR shows that the incident in question had taken place on 04.01.2015 and the offence for which the petitioner has been prosecuted is the offence punishable with maximum imprisonment up to 02 years. According to learned counsel for the petitioner the final report with regard to commission of offence was filed by the police before the Court of learned Judicial Magistrate in October, 2019 and by that time from the date of alleged commission of offence more than four and half years had elapsed. According to learned counsel for the petitioner since the offence for which the petitioner has been prosecuted is punishable with maximum imprisonment up to two years only, on the date of filing of Final Report (challan) by the police, the Court of learned Judicial Magistrate was precluded from taking cognizance thereupon, in view of Section 468 of Code of Criminal Procedure. According to learned counsel for the petitioner the limitation period for filing of Final Report in such cases is two years and thus, the above-mentioned Final Report vis-a-vis FIR deserves to be quashed.

6. In support of his arguments, the learned counsel for the petitioner has referred to the observations made by this Court in the cases of 'Manvir and another vs. State of Haryana and another' CRM-M-30084-2021 [decided on 25.04.2022] and 'Rakesh Kumar & another vs. State of Haryana' CRM-M-8065-2023 [decided on 25.04.2023].

7. The learned State counsel has controverted the above-mentioned arguments. The learned State counsel has contended that there cannot be a quarrel qua the fact that bar on taking cognizance has been enshrined under Section 468 of Cr.P.C. However as per learned State counsel there is an exclusion clause compromised under Section 473 of Cr.P.C. According to



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learned State counsel it is well within the discretion of the Court to take a cognizance even after the expiry of period of limitation if the Court is satisfied on the facts and circumstances of the case that the delay has been properly explained or that it is necessary to take cognizance in the interest of justice.

8. The learned State counsel has further contended that in the present case one of the reason which prevented the Investigating Agency from filing the report within a period of two years was the delay in preparation of report of Board of Directors with regard to cause of death. As per learned State counsel the Final Report submitted by the police in the Court in itself discloses that the report of Medical Board with regard to cause of death was received by the Investigating Officer on 10.05.2019 only and thereafter, without any inordinate delay the Final Report was filed. As per learned State counsel since without the above-mentioned expert opinion, the final report could not have been filed, the above-mentioned explanation is sufficient within the ambit of Section 473 Cr.P.C. and therefore, no ground for quashing on the ground of bar of limitation is made out in the present case.

9. The record has been perused carefully.

10. A perusal of record shows that there is no dispute in the present case qua the fact that the offence for which the petitioner has been prosecuted is punishable with maximum imprisonment upto two years only. With regard to bar of limitation Section 468 of Cr.P.C. prescribes 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.]”

11. If the above-mentioned legal provisions are applied to the present case, wherein with regard to commission of offence committed on 04.01.2015 the challan was filed, before the Court, in October, 2019, it transpires that the filing of challan is beyond the period of prescribed limitation. However to deal with similar situation an exclusion clause has been provided under Section 473 of Cr.P.C. Section 473 Cr.P.C. prescribes as under:-

“Extension of period of limitation in certain cases-notwithstanding anything contained in the foregoing provisions of this Chapter, any Court may make cognizance of an offence after the expiry of the period of limitations, 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.”

12. In the light of above-mentioned exclusion clause if the facts and circumstances of the present case are analyzed, it transpired that in the Final Report under Section 173 Cr.P.C. an explanation was given by the State with regard to reasons behind the delay in filing of report. As per the above reasons



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given in the Final Report are concerned the learned trial Court is yet to apply its mind on the above-mentioned reasoning, given by the Investigating Agency in its Final Report. Since any opinion has not been rendered by the learned trial Court with regard to plea as to whether any ground for condonation of delay in the light of Section 473 Cr.P.C. is made out or not, it is hereby held that at this stage it shall not be appropriate for this Court to record its observations with regard to the above-mentioned plea.

13. In the given fact situation it shall be in the fitness of things that the plea with regard to bar of limitation is decided by the learned trial Court and if any of the party is aggrieved of the decision of learned trial Court, then it may take recourse of knocking the door appellate/extraordinary Courts.

14. Taking into consideration the above-mentioned factual matrix of the present case, the present petition is hereby **disposed of**, with a direction to the learned trial Court to hear the parties on the above-mentioned aspect before framing of charge and pass an appropriate order thereupon, as per law.

(SURYA PARTAP SINGH)
JUDGE

11.02.2026

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Whether speaking/reasoned Yes/No

Whether reportable Yes/No