2026:PHHC:048135

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

SR. NO.105

CRM-M-44580-2017 (O&M)
DATE OF DECISION:23.03.2026

GURMAIL SINGH @ GHULI

…PETITIONER(S)

VERSUS

STATE OF PUNJAB

...RESPONDENT(S)

CORAM: HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present: Mr. Rahul Bhargava, Advocate
for the petitioner.

Mr. M.S. Bajwa, DAG, Punjab.

N.S. SHEKHAWAT, J.

1. The petitioner has filed the present petition with a prayer to quash FIR No.213 dated 08.11.2014 under Sections 21/61/85 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short `NDPS Act) and Sections 61/1/14 of the Punjab Excise Act, 1914 (for short 'the Excise Act'), registered at Police Station Gate Hakima, Amritsar City and the order dated 23.10.2017 passed by the trial Court, dismissing the application of the petitioner for discharge filed under Section 75 of the Excise Act.

2. While issuing notice of motion on 24.11.2017, this court had noticed the following contentions made by learned counsel for the petitioner.

> *"Prayer in this petition is for quashing of FIR No.213 dated 08.11.2014 under Sections 21/61/85 of NDPS Act and Sections 61/1/14 of Punjab Excise Act, 1914 ('the Act' for short), registered at Police Station Gate Hakima, Amritsar City and the order dated 23.10.2017 passed by the trial Court, dismissing the application of the petitioner for discharge filed under Section 75 of the Act.*
>
> *Counsel for the petitioner submits that in this case, FIR was registered on 08.11.2014 and the report under Section 173 Cr.P.C. was presented on 16.09.2016 only under Sections 61/1/14 of the Act whereas Sections 21/61/85 of NDPS Act were deleted vide rapat No.31 dated 08.06.2016 and thus, in view of provisions of Section 75 (2) of the Act, the Court was not competent to take cognizance, as the challan had been presented after a period of about two years. Counsel for the petitioner has relied upon the judgment dated 23.09.2016 passed in CRM-M-36005-2014 (Jagminder Singh @ Pappu Vs. State of Punjab and another), judgment dated 25.10.2016 passed in CRM-M-5549-2016 (Rajnit Singh @ Jeet Singh Vs. State of Punjab and others) and judgment dated 12.07.2016 passed in CRM-M-1807-2017 (Amit Singh Vs. Union Territory, Chandigarh), wherein on the similar grounds, the FIR was quashed.*
>
> *Notice of motion for 24.01.2018.*
>
> *In the meantime, trial Court is directed to adjourn the case beyond the date fixed in this case."*

3. Even during the course of arguments, learned counsel for the petitioner has reiterated the above submissions and submitted that in view of the provisions contained in Section 75 of the Excise Act, this Court should exercise its inherent powers to quash the FIR and all subsequent proceedings arising therefrom.

4. On the other hand, learned State counsel submitted that the petitioner in the present case is charged with the serious offence and the present petition under Section 482 Cr.P.C. deserves to be dismissed.

5. I have heard learned counsel for the parties and perused the case file carefully.

6. Before proceedings any further. It would be relevant to reproduce the provisions of Section 75 of the Excise Act, which read as under:-

> *"75. Cognizance of offences-(1) "No Judicial Magistrate shall take cognizance of an offence punishable.*
>
> > *(a) under Section 61 or Section 66 except on his own knowledge or suspicion or on the complaint or report of an excise officer; or*
> >
> > *(b)under Section 62, Section 63, Section 63-A, Section 64, Section 65, Section 68, or Section 70, except on the complaint or report of the Collector or an excise officer authorized by him in that behalf.*
>
> *(2) Except with the special sanction of the State Government no Court shall take cognizance of any offence punishable under this Act unless the prosecution is instituted within a year after the date on which the offence is alleged to have been committed.*

7. In the present case, admittedly the FIR was initially registered on 08.11.2014 and challan under Section 61 of the Excise Act had been presented against the petitioner on 16.9.2016. Even the presentation of challan was barred by the period of limitation and the trial court was not competent to take cognizance of the offence.

8. In view of the above, the petition is allowed. Resultantly, FIR No.213 dated 08.11.2014 under Sections 61/1/14 of the Punjab Excise Act (Sections 21/61/85 of NDPS Act already deleted vide Rapat No.31 dated

08.06.2016) registered at Police Station Gate Hakima, Amritsar City is quashed and the order dated 23.10.2017 passed by the trial Court is set aside.

Pending application(s), if any, shall also stand disposed off, accordingly.

23.03.2026 **(N.S.SHEKHAWAT)**
mks **JUDGE**

Whether Speaking/Reasoned: YES / NO
Whether Reportable: YES / NO