In the High Court of Punjab and Haryana at Chandigarh

Criminal Misc. No.M-30364 of 2010(O&M)
Date of decision: 5.9.2011

Surjit Singh

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr.GPS Bal, Advocate,
for the petitioner.

Mr.Vishal Munjal, Addl.A.G.Punjab.

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SABINA, J.

This petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 for quashing of Calendra dated 25.10.2003 and all the subsequent proceedings arising therefrom.

Learned counsel for the petitioner has submitted that the proceedings under Section 182 of the Indian Penal Code (IPC for short), 1860 had been initiated after the expiry of limitation and hence, the calendra in question was liable to be quashed. In support of his arguments, learned counsel has placed reliance on **Harbhajan Singh Bajwa vs. Senior Superintendent of Police, District Patiala and another 2000 (3)RCR (Criminal) 94,** wherein, in para 4, it was held as under:-

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"Learned counsel for the petitioner argued that the cancellation report was accepted by the Court only on 10.6.1999 and therefore, the period of limitation runsfrom the date of acceptance of the report filed under Section 173 Criminal Procedure Code. This argument, in my view, is devoid of any merit. The offence under Section 182 IPC is complete when the complaint is found to be false. Therefore, it is the date for starting limitation when the investigating agency concludes the investigation and finds the averments in the complaint are false. The acceptance of cancellation report will not extend the time. Under Section 469 of the Code of Criminal Procedure, where the commission of the offence is 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 any police officer, whichever is earlier. Therefore, when the police officer finds that the complaint was false, it is that date when the limitation starts."

Learned State counsel, on the other hand, has submitted that the calendra was presented after the cancellation report was approved by the competent authority.

After hearing learned counsel for the parties, I am of the opinion that the present petition deserves to be allowed.

In the present case, admittedly, the cancellation report was prepared on 10.8.2002, whereas, the calendra under Section 182 IPC was presented on 25.10.2003. Thus, the calendra was

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presented after the expiry of the period of limitation. As per Section 468 Cr.P.C., the period of limitation shall be one year if the offence is punishable with punishment for a term not exceeding one year. The punishment for an offence under Section 182 IPC is an imprisonment which may extend to six months or with fine which may extend to 1,000/- rupees or with both. Thus, the calendra could have been presented within one year from the date when the investigating agency had concluded that the averments in the complaint were false. However, in the present case the calendra has been presented after the period of limitation as envisaged under Section 468 Cr.P.C.

Accordingly, the present petition is allowed. Calendra dated 25.10.2003 and all the subsequent proceedings arising therefrom, are quashed.

(SABINA)
JUDGE

September 5, 2011
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