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

**CRM-M-61701-2024 (O&M)
Date of decision : 20.08.2025**

Paramjit Singh and others

...Petitioners

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. S. P. Soi, Advocate
for the petitioners.

Ms. Sakshi Bakshi, AAG, Punjab.

MANISHA BATRA, J. (Oral)

1. Prayer in this petition, filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 (*for short 'BNSS'*), is for quashing of FIR No. 169 dated 18.10.2023, registered under Section 61 of the Punjab Excise Act, 1914 (*for short 'the Act, 1914'*) at Police Station Shahkot, District Jalandhar (Rural) along with all the subsequent proceedings having arisen therefrom.
2. At the very outset, it is relevant to mention that this petition has been dismissed as withdrawn qua petitioners No. 2 and 3, vide order dated 31.07.2025 and 21.03.2025, respectively.
3. Brief facts of the case relevant for the purpose of disposal of the present petition are that the aforementioned FIR was registered on the basis of the statement recorded by the Excise Inspector, Shahkot on the allegations that on 18.10.2023, he along with a police official and some private persons had formed a raiding party and had conducted raid at the house of petitioner No. 1 (*hereinafter referred to as 'petitioner'*). The petitioner along with petitioners No. 2 and 3 was found distilling illicit liquor with the help of a furnace.

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However, all three of them managed to flee on seeing the members of the raiding party. Some persons, namely Baldev Singh @ Bittu, Rajwinder Singh, Eric, Suraj and Joginder, were found present at the spot. As per the allegations, investigation proceedings were initiated and 05 bottles containing 3750 ML of illicit liquor, 30 liters *Lahan* and a running furnace were recovered from the spot and were taken into custody by the police. The petitioner was arrested on 07.11.2023 and was released on bail. Challan was presented against the petitioner on 17.01.2025.

4. It is argued by learned counsel for the petitioner that the impugned FIR is liable to be quashed as the *challan* in this case was presented after a gap of more than 01 year and 03 months from the date of occurrence. The petitioner had been booked for commission of offence punishable under Section 61 of the Act, 1914, which provides maximum punishment for 03 years. As per Section 75 of the Act, 1914, the Magistrate can take cognizance of an offence punishable under Section 61 of the Act, 1914 if the prosecution is instituted within a period of 01 year after the date on which the offence is alleged to have been committed and not beyond that. It is submitted that since the challan against the petitioner has been presented before the Court of jurisdictional Magistrate after the expiry of statutory period, hence, the Magistrate is not competent to take cognizance of the matter. Therefore, it is urged that the petition deserves to be allowed and the impugned FIR is liable to be quashed along with all the subsequent proceedings. To fortify his argument, learned counsel for the petitioner has relied upon ***Pritam Singh and Ors. vs. State of Punjab 1981 CriLJ 545, Jasvir Singh vs. State of Punjab CRM-M-12706 of 2019 (O&M), Beant Singh vs. State of Punjab, CRM-M-12810-2018*** and

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Ranjit Singh @ Jeet Singh vs. State of Punjab and others, CRM-M-5549-2016.

5. Status report has been filed by the respondent-State. It is submitted therein and learned State counsel has argued that the delay in presentation of challan was purely procedural and the petitioner cannot take benefit of the same. Hence, it is urged that the petition is liable to be dismissed.

6. I have heard learned counsel for the parties at considerable length and have also gone through the record carefully.

7. At the outset, it would be appropriate to refer to Section 75 of the Act, 1914, which reads 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. [Provided that no police officer or constable discharging the function of an excise officer, shall file a complaint or make the report, set out in clause (a) in regard to the offences of collection, possession and sale of liquor, committed on the premises of a licensed vend, unless authorised to do so, by the Financial Commissioner.]

(2) Except with the special sanction of the State Government no 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.

8. Section 468 of Cr.P.C. is also relevant for the purpose. The same is

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reproduced below:

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.

9. On a bare reading of Section 75 of the Act, 1914, it is apparent that the bar under this section becomes operative on expiry of 01 year from the date when the alleged offence is stated to have been committed. In the instant case, as per the allegations, the offence had been committed on 18.10.2023, whereas the report under Section 173(2) of Cr.P.C. had been presented on 18.01.2025 i.e. after a period of 01 year and 03 months, which was beyond the period of limitation. Hence, the learned trial Court clearly erred in taking cognizance of the offence alleged. Reliance in this regard can be placed upon the case of *Pritam Singh*'s case (supra), wherein the following observations were made:

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“Since the period of limitation for institution of prosecution has been dealt with in the Excise Act, as also in the Criminal Procedure Code, so, if possible a construction that would not tend to exclude the application of the provisions of either of the statutes but would harmonise the relevant provisions has to be put upon the said provisions. When these provisions are so read, the conclusion is inescapable that the prosecution for the offence dealt with under the Excise Act has to be launched within one year, as envisaged by sub-section (2) of section 75 of the Excise Act and if that is not done and special sanction, as envisaged by sub-Section (2) of section 75, of the State Government is not forthcoming, then even if clause (c) of sub-section (2) of section 368 of the Code envisages a period of three years for the launching of the prosecution for the kind of offences, with which the petitioners are charged herein, no prosecution can be launched after the expiry of the period of one year and the Court would stand debarred from taking cognizance of the offence in question. However, where special sanction of the State Government had been sought for by the prosecuting agency and the sanction had been given by the State Government and the period envisaged by section 468 of the Code for launching of the prosecution had not run out, then the Court could still take cognizance of the offence. But if the limitation period envisaged by the provisions of section 468 had expired before the special sanction of the kind had been granted by the State Government, then the Court would be debarred from taking cognizance of the offence unless the provisions of sub-section (3) of section 470 of the Code are attracted, for where provisions of section 470(3) are attracted, then the period spent in securing sanction of the State Government, while computing the period as limitation, shall have to be excluded and if after so doing period of limitation was still available.”

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10. Similarly, this Court in the cases of *Jasvir Singh, Gursevak Singh, Ranjit Singh and Beant Singh* (supra) had quashed the FIR and subsequent proceedings instituted under Section 61 of the Act, 1914 keeping in view the fact that the cognizance was taken by the Court concerned after the expiration of the period of limitation as prescribed under Section 468 of Cr.P.C. Obviously, the Court has the power to extend the period of limitation in certain cases under Section 473 of Cr.P.C. i.e., if the Court is satisfied that given the facts and circumstances of the case, the delay has been properly explained or that the taking of cognizance is necessary to do so in the interest of justice, however, this provision is not relevant for consideration since no such order has been passed by the learned trial Court, condoning the delay and recording its reasons for doing so. Keeping in view the discussion as made above, I am of the considered opinion that the impugned FIR deserves to be quashed. Accordingly, the present petition is allowed and the impugned FIR bearing No. 169 dated 18.10.2023, registered under Section 61 of the Act, 1914 at Police Station Shahkot, District Jalandhar (Rural) along with all the subsequent proceedings having arisen therefrom is quashed qua petitioner Paramjit Singh.

20.08.2025

Wassem Ansari(MANISHA BATRA)
JUDGE*Whether speaking/reasoned**Yes/No**Whether reportable**Yes/No*