



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

**CRM-M-42595-2024  
Date of Reserve:28.02.2025  
Date of Decision:31.07.2025**

Harpreet Singh ...Petitioner

Vs.

State of Punjab and Anr. ...Respondent

**Coram : Hon'ble Mr. Justice N.S.Shekhawat**

Present: Mr. Tanvir Singh Grewal, Advocate  
for the petitioner.

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

Mr. Munish Jolly, Advocate  
for the complainant/respondent No.2.

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**N.S.Shekhawat J.(Oral)**

1. The petitioner has filed the present petition under Section 482 of Cr.P.C with a prayer to quash the order dated 17.02.2024 (Annexure P-3) passed by the Court of Judicial Magistrate Ist Class, Kharar, whereby, the report under Section 173 Cr.P.C in a case arising out of FIR No.29, dated 14.04.2019, under Sections 341,323,506,148,149 of IPC, Section 201 of IPC added later on, Police Station Block Majari, District SAS Nagar, Punjab (Annexure P-1) was ordered to be registered and notice was issued to the accused and the cognizance was taken by the Trial Court. A further prayer has been made to quash the abovesaid FIR (Annexure P-1) and all subsequent proceedings pending before the Court of Judicial Magistrate Ist Class, Kharar as cognizance by the Trial Court was barred by limitation as per the provisions of Section 468

Cr.P.C.

2. Learned counsel for the petitioner contends that one FIR No.29, dated 14.04.2019, under Sections 341,323,506,148,149 of IPC, Section 201 of IPC added later on, Police Station Block Majari, District SAS Nagar, Punjab (Annexure P-1) was ordered to be registered against the petitioner on the basis of the statement made by Jaswinder Singh, respondent No.2. Since, the offences invoked by the respondent No.2 were bailable in nature, the petitioner was ordered to be released on bail by the police. Ultimately, the challan was prepared by the Investigating Agency against the petitioner and his co-accused. The final report under Section 173 Cr. P.C was presented before the Trial Court on 17.02.2024 for the offences punishable under Sections 341,323,506,148,149 and 201 of IPC. Ultimately, vide the impugned order dated 17.02.2024 (Annexure P-3), the Court registered the challan and notice was issued to the petitioner and other co-accused for 16.03.2024 i.e. formally took cognizance of the offence in the present case. Learned counsel further submits that the FIR in the present case was registered on 14.04.2019 with regard to the commission of the offence dated 13.04.2019. Still further, the offence under Section 341 of IPC is punishable with an imprisonment for a term which may extend to one month or with fine, whereas, the offence under Section 323 IPC is also punishable with imprisonment of either description for a term which may extend to one year or with fine, whereas, offence under Section 506 of IPC is punishable with imprisonment of either description for a term which may extend to two years or with fine. Still further, even the offence under Section 201 IPC is punishable with imprisonment of the description provided for the offence for a term which may extend to 1/4th part of the longest term of the imprisonment provided for the offence or with fine. Consequently, the maximum sentence,

which could be imposed in the present case was up to two years. He further submits that in the present case, the offence was committed on 13.04.2019, whereas, the FIR was registered on 14.04.2019. Consequently, the impugned order dated 17.02.2024 (Annexure P-3), whereby, the cognizance was taken by the Trial Court was hopelessly time barred. In fact, the period of limitation for taking cognizance in the instant case as per the provisions of the Section 468 Cr.P.C is three years as the offence is punishable with the imprisonment for a term exceeding one year and not exceeding three years.

3. On the other hand learned State counsel as well as learned counsel for the complainant have vehemently opposed the submissions made by learned counsel for the petitioner on the ground that the delay had been properly explained in the present case. Apart from that, it has been found that the Investigating Officer of the present case namely ASI Parminder Kumar was negligent in performing his duties and due to this, the challan could not be presented before the competent Court of law.

4. I have heard learned counsel for the parties and perused the record carefully.

5. Chapter XXXVI, comprising of Sections 467 to 473 was introduced in the Code of Criminal Procedure, which provided for a start and a finish point, during the investigation in the trial.

6. Section 467 Cr. P.C lays down that the “period of limitation” is the period prescribed in Section 468 for taking cognizance of an offence. Clause (2) of Section 468 Cr.P.C prescribes a graded period of limitation ranging from six months to three years for the offences, where, the punishment ranging from 01 to 03 years. Section 469 Cr.P.C which is crucial for reckoning the starting point

of the period of limitation. Section 469(a) spells out the general rule that the limitation shall run from the date of the offence (excluding the first day under Clause (2) of Section 469). Section 469 (b) and (c) are exceptions to the general rule providing for deferment of running of limitation in cases where (a) the commission of the offence is not known or (b) the offender is not known. Still further, Sections 470 and 471 Cr.P.C provides for the exclusion of time in certain cases. Section 472 Cr.P.C incorporates the well-known rule that in case of a continuing offence, a fresh period of limitation begins to run at every moment of the time during which the offence continues. Section 473 Cr.P.C empowers the Court to condone the delay and take cognizance beyond the period prescribed in Section 468 Cr.PC if it is satisfied that the delay has been properly explained or that it is necessary to do so in the interests of justice. This is broadly the scheme of Chapter XXXVI Cr.P.C.

7. Even, the Hon'ble Supreme Court has delivered the several landmark judgments with regard to taking cognizance by the Courts as well as the relevant date for taking the cognizance. In "*Japani Sahoo Vs. Chandra Sekhar Mohanty,2007(7) SCC 394*, the victim had lodged a complaint before the Court of Sub-Divisional Magistrate. The Court took cognizance of the complaint for the offences punishable under Sections 294 and 323 IPC. The High Court in the said case dismissed the complaint, however, on appeal, the Hon'ble Supreme Court had set aside the order passed by the High Court. Ultimately, the Hon'ble Supreme Court after referring to the decision in "*Bharat Damodar Kale vs. State of A.P,8 SCC,559*, held that as the complaint was filed within two days, subsequent delay in taking cognizance caused by the Court could not be put against the complainant applying the principles of actus curiae neminemgravabit. Still further, in the matter

of "Sarah Mathew Vs. Institute of Cardio Vascular Diseases (2014) 2 SCC 62, the

Hon'ble Supreme Court held as follows:-

*“51. In view of the above, we hold that for the purpose of computing the period of limitation under Section 468 CrPC the relevant date is the date of filing of the complaint or the date of institution of prosecution and not the date on which the Magistrate takes cognizance. We further hold that Bharat Kale (Bharat Damodar Kale v. State of A.P., (2003) 8 SCC 559 :2004 SCC (Cri) 39) which is followed in Japani Sahoo Japani Sahoo v. Chandra Sekhar Mohanty, (2007) 7 SCC 394: (2007) 3 SCC (Cri) 388) lays down the correct law. Krishna Pillai [Krishna Pillai v. T.A. Rajendran, 1990 Supp SCC 121: 1990 SCC (Cri) 646) will have to be restricted to its own facts and it is not the authority for deciding the question as to what is the relevant date for the purpose of computing the period of limitation under Section 468 CrPC.”*

8. It must also be pointed out that the Constitution Bench has used the expression "date of filing of the complaint or the date of institution of prosecution". The expression "date of institution of prosecution" was used in Japani Sahoo's case (affirmed by the Constitution Bench) which, as discussed above, was a prosecution under the Drugs and Cosmetics Act, 1940. Section 32 of the said Act states that "no prosecution under this Chapter shall be instituted except by.....". Thus, the expression "institution of prosecution" was used in Sarah Mathew's case to denote cases where authorities under the Drugs and Cosmetics Act, 1940 and other similar enactments commence prosecution, by filing complaints under Section 190(1)(a) before the Magistrate. This

expression should not be confused with the lodging of an FIR since the decision in Sarah Mathew's case had nothing to do with prosecutions under Chapter XII of the Cr.P.C.

9. In the present case also, the alleged offence was committed on 13.04.2019, whereas, the FIR was got registered by the complainant on 14.04.2019. However, vide the impugned order dated 17.02.2024, the Trial Court registered the challan and notice was issued to the accused for 16.03.2024 and the impugned order dated 17.02.2024 and all consequential proceedings are hopelessly time barred and the impugned order is ordered to be set aside.

10. In view of the above, order dated 17.02.2024 (Annexure P-3) passed by the Court of Judicial Magistrate Ist Class, Kharar and FIR No.29, dated 14.04.2019, under Sections 341,323,506,148,149 of IPC, Section 201 of IPC added later on, Police Station Block Majari, District SAS Nagar, Punjab (Annexure P-1) and all consequential proceedings arising therefrom are hereby ordered to be quashed by this Court, qua the petitioner.

11. Ordered accordingly.

(N.S.SHEKHAWAT)  
JUDGE

31.07.2025  
*hitesh*

Whether speaking/reasoned : Yes/No  
Whether reportable : Yes/No