

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

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**CRM-M-34536-2017 (O&M)**

**Date of Decision: 07.05.2025**

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Jagbir Singh

... Petitioner

VS.

UT Chandigarh & Anr.

... Respondents

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**CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL**

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Present: Mr. Pradeep Virk, Advocate for the petitioner

Mr. Ankur Bali, Addl. APP, UT Chandigarh

Mr. Rajesh Punj, Advocate and

Ms. Kulwinder Kaur, Advocate for respondent No.2

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**Sandeep Moudgil, J. (Oral)**

(1). This petition under Section 482 CrPC has been filed by the petitioner seeking to quash the order dated 22.08.2017 (Annexure P6) passed by Addl. Sessions Judge, Chandigarh vide which the revision filed by the petitioner against dismissal order dated 19.04.2017 (Annexure P4) has been partly allowed and the matter has been remanded back to the trial court.

(2). Learned counsel for the petitioner contends that the name of the petitioner, was mentioned for the first time by Raman Kumar as per the challan filed by the police on 17.11.2012 and thereafter, the name of the petitioner was pointed out by the complainant Gurmeet Singh on 18.12.2012 in his complaint. He submits that the petitioner was nominated as accused for the first time on 12.01.2013, the date when the petitioner was summoned after issuing him a notice pursuant to the statement made by the complainant on 18.12.2012 and thereafter only, the Cyber Cell made a report regarding petitioner's involvement on 09.03.2013. It is then submitted that the alleged

offence was committed on 03.11.2012 whereas the name of the petitioner, for the first time, figured in a statement made by the complainant on 18.12.2012 and once the final report was submitted beyond the period of 3 years from the said date, the trial court was barred under Section 468 CrPC to take cognizance of the offence vide judgment dated 19.04.2017.

(3). Learned counsel then urged that though revisional Court principally agreed and quashed the impugned order dated 19.04.2017 to the extent of limitation under Section 468 CrPC, however, it wrongfully, remanded the matter back to the trial court directing it to consider the plea taken by the petitioner at the time of argument on charge i.e. the stage of cognizance which shows that the revisional court misinterpreted the provisions of Section 468 CrPC and unlawfully sailed beyond its jurisdiction to exercise such powers which were never empowered to it by law. It is contended that an application under Section 468 CrPC is liable to be moved and decided at the time of cognizance of an offence and not at the time of framing of charges as it is a stage after the cognizance has already been taken and therefore, the revisional court overstepped its jurisdiction in directing the trial court to frame charges under Section 466/468 IPC as there were certain allegations to that effect and once the police after thorough investigation did not present the challan under the said provisions of IPC, the observation of the revisional court would not only cause prejudice to the petitioner but would also amount to overstepping of jurisdiction by the revisional court.

(4). In the reply filed by Dr. Rashmi Sharma Yadav, DSP, Cyber Crime Investigation Cell & IT, Chandigarh on 09.03.2019, it has been averred that if the court comes to the conclusion regarding barring of

cognizance against the petitioner, then Section 473 CrPC empowers the court to condone the delay if it is necessary to do so in the interest of justice and since the revisional court found material against the petitioner which substantiates his involvement in committal of crime under Section 468 IPC, the trial is necessary to bring out the truth. It is further averred that the court can frame charges for any offences if the same is found made out from the contents of the FIR.

(5). Respondent No.2 – Dr. Gurmeet Singh has also filed reply dated 03.12.2018 pointing out that the present petition deserves to be dismissed as the petitioner's revision petition has been allowed and the matter has been remanded back and as such, the second revision petition in the form of petition under Section 482 CrPC would not be maintainable as has been held by the Supreme Court in **Pankaj Kumar vs. State of Maharashtra 2008 (4) RCR (Crl.) 890**. He further submits that the documents (Annexures P1 & P3) relied upon by the petitioner regarding limitation, were not part of the report under Section 173 CrPC.

(6). It is further argued that respondent No.2 was not aware of the role of the petitioner and his role came into picture after the statement of Sandeep Kumar as per report under Section 173 CrPC which has been rightly taken into consideration by the revisional court and as such, both the parties would get an opportunity to present their case in a better way to determine as to whether the offence under Sections 466/468 IPC is made out or not.

(7). Having heard learned counsel for the parties,

(8). It appears that though the petitioner relies upon the documents Annexure P1 and P3 to support his limitation claim, but these documents

were never part of the report under Section 173 CrPC and as such, the same could not be considered by the courts below. Moreover, the revisional court or the trial court cannot be said to be exceeding their jurisdiction and it can very well consider whether offences under Sections 466/468 IPC are made out based on the complaint and evidence during charge framing, at any stage and such assertion, based on application of judicial mind, would entail an opportunity indeed to both the parties to demonstrate that the offences imputed are applicable or not.

(9). The courts below under Section 473 CrPC can *suo motu* consider and condone delays as in the present case, it is the specific stand of the complainant that he was initially unaware of the petitioner's role, which was revealed later, and this was considered by the Additional Sessions Judge in the revision petition.

(10). Given these circumstances, there is no merit in the present petition and the same is accordingly dismissed.

(11). Ordered accordingly.

07.05.2025

V.Vishal

1. Whether speaking/reasoned?

2. Whether reportable?

**(Sandeep Moudgil)**  
**Judge**

Yes/No

Yes/No