

(2025) 06 SHI CK 0689
In the High Court Of Himachal Pradesh
Case No : Cr. MMO No. 165 Of 2025

Anurag Singh And Anr

APPELLANT

Vs

State Of H.P. Through Labour Inspector

RESPONDENT

Date of Decision : 06-06-2025

Acts Referred:

Citation : (2025) 06 SHI CK 0689

Hon'ble Judges : Jyotsna Rewal Dua, J

Bench : Single Bench

Advocate : Vivek Singh Attri, M.A. Safee, Rajat Chaudhary, Vishal Thakur, Nitin Thakur, Abhimanyu Rathore

Final Decision : Allowed

Judgement

Rakesh Kainthla, J

1. The petitioner has filed the present petition for quashing of Complaint No.17/2024 titled as State through Labour Inspector versus Gujaspreet Singh Malhotra and another pending before the learned Additional Chief Judicial Magistrate, Nalagarh. (Parties shall hereinafter be referred to in the same manner as they are arrayed before the learned Trial Court for convenience.)

2. Briefly stated, the facts giving rise to the present petition are that the complainant filed a complaint before the learned Trial Court, asserting that he had inspected M/s Malhotra Sons Defence Private Limited and found several violations of the Factories Act. The complainant issued two written notices for rectification of the defect and production of the relevant record and register, but the accused failed to comply with the demand. The employer submitted a written reply by post, but it was not found satisfactory; hence, the complaint was filed before the Court.

3. Learned Trial Court took cognisance of the complaint and ordered the issuance of the summons.

4. Being aggrieved by the filing of the complaint and passing of the order taking cognisance, the petitioner/accused has approached this Court. It has been asserted that the Factories Act provide for a limitation period of three months under Section 106 of the Factories Act. The offence was committed on 25.04.2024 and the complaint was filed on 16.08.2024 after 03 months and 20 days. The learned Trial Court could not have taken cognisance of the commission of the offences after three months; therefore, it was prayed that the present petition be allowed and the proceedings pending before the learned Trial Court be quashed.

5. The petition was opposed by filing a reply making a preliminary submission regarding the lack of maintainability. It was asserted that the period of six months would apply when a written order of the Inspector was disobeyed by the accused. A show cause notice dated 26.04.2024 was issued, which was disobeyed by the accused, therefore, the limitation period would be six months and not three months. Learned Trial Court had rightly taken cognisance, therefore, it was prayed that the present petition be dismissed.

6. I have heard Mr. Vibhor Verdhan and Mr. Nitin Thakur, learned counsel for the petitioner/accused, and Mr. Lokender Kutlehria, learned Additional Advocate General, for the respondent/State.

7. Mr. Vibhor Verdhan, learned counsel for the petitioner/accused, submitted that the learned Trial Court could not have taken cognisance of the offence after three months from the date of the commission of the offence. The limitation of six months does not apply to the present case because there is no complaint of the violation of the written order passed by the Labour Inspector, therefore, he prayed that the present petition be allowed and the complaint be quashed.

8. Mr. Lokender Kutlehria, learned Additional Advocate General, for the respondent/State, submitted that the period of six months will apply to the present case, and the learned Trial Court had rightly taken cognisance. Therefore, he prayed that the present petition be dismissed.

9. I have given considerable thought to the submissions made at the bar and have gone through the records carefully.

10. The law relating to quashing of criminal cases was explained by the Hon'ble Supreme Court in B.N. John v. State of U.P., 2025 SCC OnLine SC 7 as under: -

"7. As far as the quashing of criminal cases is concerned, it is now more or less well settled as regards the principles to be applied by the court. In this regard, one may refer to the decision of this Court in State of Haryana v. Ch. Bhajan Lal, 1992 Supp (1) SCC 335, wherein this Court has summarised some of the principles under which FIR/complaints/criminal cases could be quashed in the following words:

"102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court

in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety, do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to a private and personal grudge.” (emphasis added)

8. Of the aforesaid criteria, clause no. (1), (4) and (6) would be of relevance to us in this case.

In clause (1) it has been mentioned that where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused, then the FIR or the complaint can be quashed.

As per clause (4), where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order dated by the Magistrate as contemplated under Section 155 (2) of the CrPC, and in such a situation, the FIR can be quashed.

Similarly, as provided under clause (6), if there is an express legal bar engrafted in any of the provisions of the CrPC or the concerned Act under which the criminal proceedings are instituted, such proceedings can be quashed."

11. This position was reiterated in *Ajay Malik v. State of Uttarakhand*, 2025 SCC OnLine SC 185, wherein it was observed:

"8. It is well established that a High Court, in exercising its extraordinary powers under Section 482 of the CrPC, may issue orders to prevent the abuse of court processes or to secure the ends of justice. These inherent powers are neither controlled nor limited by any other statutory provision. However, given the broad and profound nature of this authority, the High Court must exercise it sparingly. The conditions for invoking such powers are embedded within Section 482 of the CrPC itself, allowing the High Court to act only in cases of clear abuse of process or where intervention is essential to uphold the ends of justice.

9. It is in this backdrop that this Court, over the course of several decades, has laid down the principles and guidelines that High Courts must follow before quashing criminal proceedings at the threshold, thereby pre-empting the Prosecution from building its case before the Trial Court. The grounds for quashing, inter alia, contemplate the following situations : (i) the criminal complaint has been filed with mala fides; (ii) the FIR represents an abuse of the legal process; (iii) no prima facie offence is made out; (iv) the dispute is civil in nature; (v.) the complaint contains vague and omnibus allegations; and (vi) the parties are willing to settle and compound the dispute amicably (*State of Haryana v. Bhajan Lal*, 1992 Supp (1) SCC 335)

12. The present petition is to be decided as per the parameters laid down by the Hon'ble Supreme Court.

13. It was specifically mentioned in the complaint that the complainant visited the factory premises on 25.04.2024 and found the violation of various provisions of the Act. It is also undisputed that the complaint was filed on 16.08.2024 after the expiry of three months. Section 106 of the Factories Act provides a limitation of three months for filing the complaint. It reads as under:

"106. Limitations of prosecutions. No Court shall take cognizance of any offence punishable under this Act unless complaint thereof made within three months of the date on which the alleged commission of the offence came to the knowledge of an Inspector: Provided that where the offence consists of disobeying a written order made by an Inspector, complaint thereof may be made within six months of the date on which the offence is alleged to have been committed.

2 Explanation. — For the purposes of this section, —

(a) in the case of a continuing offence, the period of limitation shall be computed with reference to every point of time during which the offence continues;

(b) where for the performance of any act, time is granted or extended on an application made by the occupier or manager of a factory, the period of limitation shall be computed from the date on which the time so granted or extended expired.”

14. It was laid down by Hon’ble Supreme Court in P.D. Jambekar v. State of Gujarat, (1973) 3 SCC 524: 1973 SCC (Cri) 1088: 1973 SCC (L&S) 162: 1972 SCC OnLine SC 489, that the period of three months prescribed under Section 106 would apply from the date of the knowledge of the commission of the offence and the complaint has to be filed within three months. It was observed at page 526: -

“6. It was argued on behalf of the appellant that when the report conveyed the information about the accident, the Inspector should have enquired into it with reasonable promptness and as Section 106 prescribes a period of only three months, from the date of the knowledge of the commission of the offence for filing a complaint the Inspector ought not have waited for a period of 6 months for making the inquiry. It was argued that if an Inspector were to come to know of an accident, he cannot wait till such time as he chooses to make the inquiry and then say that he came to know of the commission of an offence under the Act as a result of the inquiry and thus postpone at him whim the starting point of limitation. There can be no doubt that if the Inspector had conducted the inquiry earlier, he would have come to know of the commission of the offence earlier. But our attention was not drawn to any provision in the Act or the rules framed under the Act which obliged the Inspector to conduct an inquiry within any specified period after the receipt of the report into the cause of the accident. And in interpreting a provision in a statute prescribing a period of limitation of a proceeding, questions of equity and hardship are out of place. See the decisions of the privy council in Nagendra Nath v. Suresh Chandra [AIR 1932 PC 165: ILR (1932) 60 Cal 1 (PC): 137 IC 529] and Maqbul Ahmed v. Pratap Narain [AIR 1935 PC 85: ILR (1935) 57 All 242 (PC): 155 IC 205]. We have to go by the clear wording of the section, and the date of knowledge of the commission of the alleged offence alone is made the starting point of limitation.

7. In State v. Keshavlal [AIR 1958 Bom 243: ILR 1959 Bom 358: 1958 Cr LJ 756 : (1958) 2 Lab LJ 698], Mudholkar, J., had to deal with a similar question. No doubt, he was concerned with the interpretation of Section 23(2) and Section 79 of the Mining Act, 1952. Section 79 of the Mining Act provides:

“No Court shall take cognizance of any offence under this Act, unless a complaint thereof has been made.

(i) * * *

(ii) within six months of the date on which the alleged commission of the offence came to the knowledge of the Inspector.”

Section 23(2) states that when a notice given under sub-section (1) relates to an accident causing loss of life, the authority shall make an inquiry into the occurrence within two months of the receipt of the notice. It was contended on behalf of the State in that case that the commission of the offence came to the knowledge of the Inspector only after the completion of the inquiry and that the complaint, having been made within six months of the completion of the inquiry, was within time. On the other hand, it was contended for the accused that where the knowledge of the commission of an offence was dependent upon the result of an inquiry, such inquiry, must necessarily be commenced within two months of the date of intimation of accident and that the period of two months cannot be extended by delaying the inquiry. Dealing with the question, the learned Judge said:

“It was then said that had an inquiry been instituted earlier, the Inspector would have come to know of the breach in question earlier and so limitation must be deemed to have started running from the date of the notice of the accident or at most from the expiry of two months of the giving of the notice. It is common ground that the knowledge of an accident is not the same thing as the knowledge of an “offence”, that is, of a breach which is made penal. Therefore, the date of the notice of the accident can in no circumstances be regarded as a starting point for the commencement of limitation. The expiry of two months from the date of notice cannot, for the same reason, be regarded as a starting point of limitation.”

“No doubt, had the inquiry been made earlier, the fact of the commission of the breach or offence would have come to the knowledge of the Inspector. But Section 79(ii) does not say that the date on which an Inspector would or ought to have acquired knowledge of the commission of an offence had he been diligent or had he complied faithfully with the provision of the Act, would also be a starting point of limitation. In the circumstances, therefore, the delay in making the inquiry, however irregular or deplorable, cannot affect the question of limitation.”

8. As Section 106 makes the date of knowledge of the commission of the offence the starting point of the period of limitation, we find it difficult to read the section so as to make the date on which the Inspector would or ought to have acquired knowledge of the commission of the offence had he been diligent, the starting point of limitation, especially where, as here the statute does not provide for an inquiry into the accident much less the period with which the inquiry has to be made. It is only in the jurisprudence of Humpty Dumpty that we can equate the “date on which the alleged offence came to the knowledge of an Inspector” with the date on which the alleged offence ought to have come to his knowledge. We think that the High Court was right in its conclusion.

15. Similar view by this Court in *Rajesh Pandya versus State of H.P.* in Cr.MMO No. 26 of 2014 decided on 28.04.2015, wherein it was held: -

"2. The complaint lodged beyond a period of three months by the complainant comprised in Annexure P-2 would render the learned Court before it had come to be instituted incapacitated to take cognizance thereon only in event of it having come to be substantiated at this stage by the petitioners herein that it had come to be lodged at the instance of a functionary/official who was empowered as an Inspector. Only in the event of substantiating material qua the factum of Deputy Director (Factories), Una being empowered as an Inspector would, the provisions of Section 106 of the Factories Act barring the criminal Court of competent jurisdiction to take cognizance thereon unless it is instituted within three months from the date of acquisition of knowledge by the Inspector qua the commission of the offence at the instance of the petitioners herein come to the aid of the petitioners herein to anvil a submission that hence, the criminal Court of competent jurisdiction is barred to take cognizance thereon."

16. This position was reiterated in *Saugata Gupta v. State of H.P.*, 2019 SCC OnLine HP 1672, wherein it was observed:

"13. The Factories Act is a special Statute dealing with a specific field and provides for taking cognisance of certain offences related to the violation of the Act as well as the Rules made thereunder, and a specific period of limitation has been provided under Section 106 of the Act for taking cognisance of the offences. Explanation thereto also describes the manner in which the limitation shall be calculated in a continuing offence. However, there is no specific provision with regard to extension of the period of limitation as provided under Section 473 of the Code of Criminal Procedure (in short 'Cr. P.C'). Cr.P.C. is a Statute general in nature and Section 4(2) of Cr.P.C., provides that all offences under any other law shall be investigated, inquired into, tried and otherwise dealt with according to provisions of Cr.P.C., but subject to any enactment for the time being in force regulating manner or place of investigation, inquiring into, trying or otherwise dealing with such offence. In the Factories Act, there is a specific provision providing limitation for taking cognisance of commission of offence, including continuing offence, but there is no provision for extension of time of period of limitation, corresponding to Section 473 Cr. P.C."

17. Therefore, in view of the above binding precedents, the period of three months is mandatory, and the complaint could not have been filed after the expiry of three months.

18. It was submitted that the rectification notice was issued and the petitioners failed to comply with the same; therefore, the period of six months would apply to the present case. This submission is only stated to be rejected. The complaint only mentions the various violations detected on 25.04.2024 and that the accused had sent a reply, which was not found satisfactory. It does not mention any offence of violation of the written order issued by the Inspector. Therefore,

the rectification notice will not extend the period of limitation.

19. It was held in *Saugata Gupta v. State of H.P.*, 2019 SCC OnLine HP 1672 that the six-month limitation period will apply only when the offence consists of disobeying the written order. It was observed:

“10. Proviso to Section 106 of the Act, providing six months' limitation for filing complaint from the date of commission of offence shall come into force only where offence consists of disobeying a written order made by an Inspector and for that purpose, compliance report if any, submitted by the offender is required to be considered, referred and verified by the said Inspector and in case such disobedience is found, only then, benefit of proviso shall be available which is lacking in the present case.”

20. In the present case, there is no offence of violating the written order, and the limitation of six months will not apply.

21. Consequently, the complaint filed before the learned Trial Court was barred by limitation, and the learned Trial Court could not have taken cognisance of the same; hence, the present petition is allowed and the complaint and the consequential proceedings pending before the learned Trial Court are ordered to be quashed.

22. The present petition stands disposed of, and so are the pending applications, if any.