
(2013) 11 DEL CK 0354

In the Delhi High Court

Case No : Criminal M.C. 3441 of 2010 and Criminal M.A. 16999 of 2010

Manpreet Singh

APPELLANT

Vs

State and Others

RESPONDENT

Date of Decision : 21-11-2013

Acts Referred:

Copyright Act, 1957 — Section 51, 63, 68A
Criminal Procedure Code, 1973 (CrPC) — Section 468

Citation : (2013) 139 DRJ 277 : (2013) 56 PTC 488

Hon'ble Judges : Sunil Gaur, J

Bench : Single Bench

Advocate : Anurag Ahluwalia and Mr. Prashant Ghai, for the Appellant; P.K. Mishra, Additional Public Prosecutor for Respondent-State and Sahi Ram, SI, PS Greater Kailash-I, for the Respondent

Final Decision : Disposed Off

Judgement

Sunil Gaur, J.—At the stage of recording of evidence in FIR No. 477/1996 under Sections 51, 63, 68A of The Copyright Act, 1957 registered at Greater Kailash-I, New Delhi on 24th November, 1996, petitioner-accused had filed an application u/s 468 of Cr.P.C. for dropping of proceedings arising out of this FIR by raising plea of limitation. Above-said application of petitioner stands rejected by trial court vide impugned order of 16th July, 2010 while observing that at the stage of hearing on the charge, issue of delay in taking cognizance was not urged and the plea of locus was considered and the said order was challenged by way of revision petition, which was dismissed by the learned revisional court vide order of 27th April, 2009 in which there is no reference to the plea of limitation and the said order had attained finality. On the afore-noted reasoning, petitioner's application raising plea of limitation has been dismissed by the trial court vide impugned order. In this petition, composite challenge raised is not only to the impugned order but also to FIR of this case registered in November, 1996, to order of 7th October, 2005 vide which cognizance of the offences in question was taken against petitioner and to order of 11th January, 2008 framing charges

against petitioner and to revisional court's order of 27th April, 2009 by raising plea of limitation. At the hearing, learned counsel for petitioner had submitted that the offences in question were purportedly committed in the year 1996 but the cognizance of these offences has been taken by trial court in the year 2005 i.e. beyond a period of three years and so continuance of proceedings arising out of the FIR in question is an abuse of process of the court and so, these proceedings ought to be quashed. To contend so, reliance was placed by learned counsel for petitioner upon decisions in *Moti Pathak and Others Vs. State of U.P.*, ; *Krishna Pillai v. T.A. Rajendran and Ashok Anaraj Jain and another Vs. State of Karnataka*, .

2. To support the impugned order (Annexure-J) and to seek dismissal of this petition, learned Additional Public Prosecutor for respondent-State had submitted during the course of hearing that against revisional court's order of 27th April, 2009, petitioner had preferred CrI. M.C. No. 1911/2009 which was withdrawn by petitioner vide order of 6th July, 2009 (Annexure-I) wherein principal contention of petitioner has been noted and it is pertinent to take notice of the fact that even before a coordinate Bench of this Court, plea of limitation was not taken by petitioner in CrI. M.C. No. 1911/2009.

3. It was urged on behalf of respondents that plea of limitation raised is a mixed question of fact and law which is required to be determined at trial and by belatedly moving application for dropping of proceeding on the ground of limitation, petitioner-accused is just delaying the proceedings. To contend that for the purpose of computing period of limitation u/s 468 of Cr.P.C., the relevant date is the date of taking cognizance and not the date of filing of the complaint or initiation of criminal proceedings, reliance was placed upon Apex Court's decisions in *Japani Sahoo Vs. Chandra Sekhar Mohanty*, and *M/s. SWIL Ltd. Vs. State of Delhi and Another*, . Thus, it was urged that no case for quashing of the proceedings arising out of FIR in question is made out.

4. After having heard both the sides and on perusal of the impugned orders, FIR of this case, the material on record and the decisions cited, I find that plea of limitation ought to have been raised at the stage of hearing on charge and since petitioner had not succeeded in assailing the charges framed before the coordinate Bench of this Court in CrI. M.C. No. 1911/2009, therefore, by filing an application for dropping of proceedings at the evidence stage, petitioner has succeeded in abusing the process of court and in delaying the trial proceedings. Impugned order rightly rejects petitioner's application as formal order of cognizance in the year 2005 would relate back, is an aspect which is required to be considered at trial. Whether it is a fit case for extending period of limitation suo moto by the trial court, is also an aspect which is required to be considered by the trial court at the conclusion of the trial.

5. Finding no palpable error in the impugned order and not a fit case to quash the proceedings arising out of the FIR in question at this belated stage, this petition and the pending application are disposed of while leaving the question of

limitation open to be considered at trial while refraining to express any opinion on merits. This petition and the pending application stand disposed of accordingly.