

(2009) 03 JH CK 0092

In the Jharkhand High Court

Case No : Criminal M.P. No. 1480 of 2008

Mohit Lal Mahto @ Naresh Mahto

APPELLANT

Vs

State of Jharkhand

RESPONDENT

Date of Decision : 18-03-2009

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 468, 468(1), 468(2), 468(2)(C)
Penal Code, 1860 (IPC) — Section 414

Citation : (2009) 57 BLJR 2008

Hon'ble Judges : Amareshwar Sahay, J

Bench : Single Bench

Advocate : Binod Kumar Dubey, for the Appellant; I.N. Gupta, Assistant Public Prosecutor, for the Respondent

Final Decision : Allowed

Judgement

Amareshwar Sahay, J.—Heard the parties.

2. The petitioner has filed this application for quashing of the order dated 04.08.2007, taking cognizance of the offence u/s 414 IPC solely on the ground that the order taking cognizance is barred by limitation as prescribed u/s 468(2) (c) of the Cr.P.C.

3. Learned Counsel for the petitioner submitted that from the FIR (Annexure-2) lodged against the petitioner on 17.06.2000, it would appear that the commission of the offence u/s 414 IPC has been alleged to have taken place on 17.06.2000, whereas the police submitted charge sheet in the case against the petitioner u/s 414 IPC on 30.07.2007, on the basis of which the learned Magistrate took cognizance of the offence u/s 414 IPC on 04.08.2007, i.e. after more than seven years from the alleged date of occurrence.

4. The learned Counsel for the petitioner further submitted that Section 468(2) (c) of the Cr.P.C. provides a period of three years only as the period of limitation for taking cognizance of the offence, which is punishable with imprisonment for a

term exceeding one year but not exceeding 3 years. He further submitted that Section 414 IPC provides punishment for a maximum period of 3 years imprisonment and, therefore, the cognizance taken by the learned Magistrate on 04.08.2007 is apparently barred by law of limitation prescribed u/s 468(2)(c) of the Cr.P.C., because it was taken after an expiry of about seven year from the date of alleged offence of commission.

5. For ready reference Sub-section (1) and (2) of Section 468 Cr.P.C. and Section 414 IPC are being quoted herein 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.

414 I.P.C- Whoever voluntarily assists in concealing or disposing of or making away with property which he knows or has reason to believe to be stolen property, shall be punished with imprisonment of either description for a term which may extend to three years, or with, or with both.

6. From a bare reading of the above mentioned provisions of Section 468 Cr.P.C and Section 414 I.P.C quoted above, it appears that the law provides a period of three years as the period of limitation for taking cognizance for those offences in which punishment is provided for imprisonment exceeding one year but not exceeding three years.

7. In the present case, admittedly, the alleged offence took place on 17.6.2000, whereas cognizance has been taken for the said offence on 4.8.2000 i.e. after lapse of more than seven years. Therefore, apparently the cognizance taken against the petitioner on 4.8.2007 is barred by limitation as prescribed u/s 468(2) (c) Cr.P.C.

8. In this view of the matter, this application is allowed and the order taking cognizance against the petitioner for the offence u/s 414 I.P.C in connection with Ramgarh P.S. Case No. 153 of 2000 dated 17.06.2000, G.R. No. 1221 of 2000, T.R. No. 725 of 2008, pending before the Judicial Magistrate, 1st Class, Hazaribagh, is hereby, quashed.