



AIROnline 2019 Guj 585
GUJARAT HIGH COURT
VIKRAM NATH , C.J.

SPECIAL CRIMINAL APPLICATION - 1015
of 2013 D/- 18 - 12 - 2019

**SAURASHTRA CHEMICALS - DIVISION
OF NIRMA LTD. AND ORS. v. R R
KATARA AND ORS.**

**Criminal P.C. (2 of 1974), S.482, S.468 -
Industrial Disputes Act (14 of 1947), S.25T,
S.25U, S.25O - Quashing of proceedings -
Cognizance of offence - Bar of limitation
- Offence under Ss.25-T,25-U,25-O of
Industrial Disputes Act - S.25-U of Industrial
disputes Act provide punishment of 6 months
- Cognizance for offence punishable with 6
months to be taken within period of one year
as per S.468 of Cr.P.C. - Cognizance taken by
Magistrate after period of one year, barred by
limitation - Criminal proceedings liable to be
quashed.**

(Paras 5 6 8)

Cases Referred

Chronological Paras

Pratik Bhatia For Nanavati Associates for
Petitioner ; DM Devnani, ADDL. Public
Prosecutor for Respondent.

Judgement

1. VIKRAM NATH, C.J. :- We have heard Shri Pratik Bhatia, learned counsel for Nanavati Associates for the applicants in all the three matters and Shri D.M.Devnani, learned Additional Public Prosecutor for the opposite parties.

2. The above three applications have been filed by the Directors/Officers of Saurashtra

Chemicals praying for quashing of Criminal Case Nos.2532 of 2006, 2533 of 2006 and 2534 of 2006, pending in the Court of learned Judicial Magistrate First Class, Porbandar, as also the summons dated 18.02.2013/07.05.2010 issued by the learned Judicial Magistrate First Class, Porbandar, against the applicants.

3. These three criminal cases were instituted on a complaint filed by the Labour Officer alleging violation of the provisions of the Industrial Disputes Act, 1947 (hereinafter referred to as "the 1947 Act"), in particular Section 25(T)/25(U)/25(O) thereof.

4. The ground for challenge to this proceeding is the bar contained in Section 468 of the Criminal Procedure Code, 1973 (hereinafter referred to as "the Cr.P.C."). According to learned counsel for the applicants, in all the three cases the cognizance has been taken by the learned Magistrate beyond the prescribed period of limitation provided in Section 468 of Cr.P.C. It is submitted that the sentence provided under Section 25(U) of the 1947 Act is only six months. As such, under Section 468(2)(b) of Cr.P.C., the cognizance could be taken within a period of one year from the date of offence. In the present case, although the complaint has been filed in the year 2006, cognizance has been taken much after the expiry of period of one year, in 2010 and 2013. It was thus submitted that the learned Magistrate erred in taking cognizance and as such, the proceedings being barred by limitation, were liable to be quashed.

5. These petitions were filed in the years 2010 and 2013 wherein an interim order was also passed. Till date, no counter affidavit or response has been filed by the State or by the complainant taking an objection or disputing the facts as stated in the applications regarding the date of filing of the complaint and the date of taking cognizance by the Magistrate. Sufficient number of years have elapsed since the filing of



the applications and apparently as no disputed questions of fact arise, I have no hesitation in accepting the facts as stated in the applications.

6. The violation of limitation provided in Section 468 of Cr.P.C. is apparent on the face of record. Since Section 468 of Cr.P.C. clearly bars any Court to take cognizance beyond the period of limitation, the impugned proceedings apparently cannot continue. For ready reference, Section 468 of Cr.P.C. is reproduced 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 term exceeding one year but not exceeding three years.

[(3) For the purposes of this section, the period of limitation in relation to offences which may be tried together, shall be determined with reference to the offence which is punishable with the more severe punishment or, as the case may be, the most severe punishment.]"

7. Learned Additional Public Prosecutor for the opposite party has not been able to show any other provision in the Code where the provisions contained in Section 468 of Cr.P.C. could be avoided.

8. Accordingly, all the three applications are allowed. The impugned proceedings pending in

the form of Criminal Case Nos. 2532 of 2006, 2533 of 2006 and 2534 of 2006 are hereby quashed. Rule is made absolute in each of the petitions.

Petitions Allowed .