

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 2734 OF 2025
[ARISING OUT OF SLP (Crl.) NO. 1093 OF 2025]

SIVANKUTTY AND OTHERS

...APPELLANTS

VERSUS

P.K PATRA

...RESPONDENT

ORDER

- 1.** Leave granted.

- 2.** The appellants figure as the accused in Complaint Case No.13176 of 2018 on the file of the Chief Metropolitan Magistrate (South District), Saket Courts, Delhi¹. They take exception to the judgment and order dated 5th December, 2024, passed by the High Court of Delhi at New Delhi, dismissing their petition under Section 482 of the Code of Criminal Procedure, 1973², seeking quashing of the aforesaid complaint case.

1 Magistrate

2 Cr. PC

- 3.** The respondent, as complainant, alleged in his complaint under Section 200, Cr. PC that the appellants had committed offences punishable under Sections 323, 324, 341, 452 and 506 read with Section 34, Indian Penal Code, 1860³. The Magistrate, however, by his order dated 27th September, 2019 took cognizance of the offence under Section 323, IPC only and granted bail to the appellants. The order taking cognizance of offence only under Section 323, IPC against the appellants has not been challenged by the complainant in any proceeding. The order of the Magistrate has, thus, attained finality.
- 4.** Claiming that the date of the alleged incident is 5th September, 2015 and that the complaint was lodged by the respondent on 5th September, 2018 and, therefore, taking of cognizance of the offence under Section 323, IPC by the Magistrate is beyond the period of limitation prescribed in Section 468, Cr. PC, the appellants had approached the High Court which, as noted above, dismissed their petition under Section 482 thereof. The penultimate paragraph of the impugned order of the High Court reads as follows:

“13. Coming to the facts of the present case, the complaint has been filed by the respondent under Sections 323/324/341/452/506/34 IPC. The offence which has the most severe punishment amongst the aforesaid offences is the one under Section 452, which provides for imprisonment up to seven years. Since no limitation period has been provided for offences which are punishable with more than 3 years of imprisonment in Section 468 Cr. P.C., herein the impugned complaint cannot be stated to be barred by limitation. The rest of the contentions of the parties are a matter of trial and cannot be gone into by this Court at the present stage.”

5. The only issue, therefore, arising for decision is whether the High Court was right in spurning the challenge laid by the appellants to the taking of cognisance of the offence under Section 323, IPC against them by the Magistrate beyond the period of limitation prescribed in Section 468, Cr. PC.

6. For ease of reference, Section 468, Cr. PC is quoted below:

468. Bar to taking cognizance after lapse of the period of limitation.

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(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.

(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. The High Court, in our view, misread Section 468, Cr. PC. While it is true that sub-section (3) thereof explains how the period of limitation is to be determined in relation to several offences, which are to be tried together, such provision has no application here. Question of offences being 'tried together', as is referred to in sub-section (3), would arise if cognisance were taken of more than one offence. Per Section 468, Cr. PC, what is of primordial importance is the period of limitation for taking cognisance in respect of offences of the three categories specified in sub-section (2) thereof, for which varying punishments are stipulated by law.

8. In the present case, the respondent, *inter alia*, alleged offence under Section 452, IPC; if proved, the conviction could lead to a sentence of imprisonment in excess of three years for which, admittedly, no period of limitation is prescribed by Section 468, Cr. PC. The complaint, thus, could not have been dismissed on the ground of limitation in the first place. The Magistrate was under an obligation to examine whether the offence under Section 452, IPC, was *prima facie* made out. This examination resulted in an outcome favourable to the appellant. Though the complaint alleged offences under several sections of the IPC with Section 452 thereof providing for the most severe punishment, cognisance of offence under that section was not taken by the Magistrate and his order, to that effect, has attained finality. Ergo, the allegations made by the respondent in respect of offences carrying punishment in excess of three years pale into insignificance. It has neither been disputed nor is it in dispute that in a case where cognisance of offence is taken under Section 323, IPC and should the prosecution case be proved, leading to conviction of the accused, the sentence of imprisonment could extend to one year at the highest. It is noted that Section 468, Cr. PC ordains that the bar of limitation to take cognizance, in respect of an offence punishable with imprisonment for a term not exceeding one year, is one year only. In the absence of any indication provided by Section 468, Cr. PC as to the starting point of limitation, the periods of six months, one year and three years [as in sub-section 2 (a), (b) and (c) respectively] would necessarily have to relate back to the date of offence and not to the date when the

complaint is lodged. If indeed, a complaint is lodged by a complainant within the period of limitation but cognizance is taken beyond such period, due to official process and/or for reasons not attributable to the respondent, the bar to take cognizance would not be attracted. This is because an act of court cannot prejudice anyone⁴. Nonetheless, we are conscious that in a fit and proper case, the court is not powerless to take cognisance beyond the period of limitation prescribed in Section 468, Cr. PC if any of the twin conditions mentioned in Section 473 thereof is satisfied.

9. Therefore, we find it difficult to accept the reasoning of the High Court in the impugned order excerpted above that the complaint cannot be stated to be barred by limitation. If the reasoning of the High Court were accepted, it would pave the path for any disgruntled individual to lodge a complaint beyond three years of the incident of crime *inter alia* alleging offences against the accused which stipulate punishment of imprisonment in excess of as well as less than three years and upon the court reaching a satisfaction that the allegations relating to the offences stipulating punishment of imprisonment in excess of three years not being substantiated, to then turn around and contend that the accused may be tried for the offences stipulating punishment for a prison term not exceeding six months/one year/three years, as the case may be.

4 *actus curiae neminem gravabit*

- 10.** Since the Magistrate has not taken cognizance of any of the offences alleged apart from the offence under Section 323, IPC, the bar in Section 468, Cr. PC took effect and the High Court was not justified in spurning the challenge on the ground assigned by it.
- 11.** In the result, the appeal succeeds. The impugned order of the High Court as well as the order dated 27th September, 2019, taking cognizance of the offence under Section 323 IPC, stand set aside. Consequently, Complaint Case No.13176 of 2018 stands quashed.
- 12.** Pending application(s), if any, stand disposed of.

.....J.
(DIPANKAR DATTA)

.....J.
(K. VINOD CHANDRAN)

**NEW DELHI.
MAY 21, 2025.**

ITEM NO.12

COURT NO.12

SECTION II-C

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl.) No(s).1093/2025

[Arising out of impugned final judgment and order dated 05-12-2024 in CRLMC No.1319/2023 passed by the High Court of Delhi at New Delhi]

SIVANKUTTY & ORS.

Petitioners

VERSUS

P.K. PATRA

Respondent

(With I.A. No.19946/2025-EXEMPTION FROM FILING O.T. and I.A. No. 19942/2025-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 21-05-2025 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE DIPANKAR DATTA
HON'BLE MR. JUSTICE K. VINOD CHANDRAN

For Petitioner(s) :Mr. Avijit Roy, AOR
Mr. Junais Padalath, Adv.
Mr. Prasanth Kulambil, Adv.

For Respondent(s) :Mr. Danish Zubair Khan, AOR
Dr. Lokendra Malik, Adv.
Mr. George Pothan Poothicote, Adv.
Mr. Madhusudan Bhayana, Adv.

UPON hearing the counsel the Court made the following
O R D E R

1. Leave granted.
2. The appeal succeeds in terms of the signed order.
3. Pending application(s), if any, shall stand disposed of.

(RASHMI DHYANI PANT)
ASTT. REGISTRAR-cum-PS

(SUDHIR KUMAR SHARMA)
COURT MASTER (NSH)

(signed order is placed on the file)