

**Arun Kumar Mody and anr. Vs. State of Madhya Pradesh**

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**Court :** Madhya Pradesh

**Decided On :** Mar-07-2006

**Reported in :** 2006(2)MPHT380; 2006(2)MPLJ430

**Judge :** S.S. Jha, J.

**Acts :** Code of Criminal Procedure (CrPC) , 1974 - Sections 468, 469, 469(1), 470 and 482; [Indian Penal Code \(IPC\), 1860](#) - Sections 120B and 418;

**Appeal No. :** Misc. Criminal Case No. 1884/2003

**Appellant :** Arun Kumar Mody and anr.

**Respondent :** State of Madhya Pradesh

**Advocate for Def. :** C.S. Dixit, Public Prosecutor

**Advocate for Pet/Ap. :** Sanjay Gupta, Adv.

**Disposition :** Petition dismissed

**Judgement :**

ORDER

**S.S. Jha, J.**

1. This petition is filed under Section 482, Cr.PC by the petitioners for quashing the charge against them.

2. Petitioners contended that charges for the offences under Section 418 read with Section 120B, IPC have been framed against them on 7-8-2002. It is contended by the Counsel for the petitioners that allegation about commission of offence relates to the period between 20-10-1994 to 28-10-1994 when the petitioners were holding the post of Director in the company known as 'Milk Food Limited Ads Bikaner'. He submitted that the Court had no jurisdiction to take cognizance after expiry of period of limitation prescribed under Section 468, Cr.PC.

3. It is alleged that the petitioners alongwith co-accused have caused loss to the Dugdh Sangh, Gwalior.

4. Section 468, Cr.PC lays down that no Court shall take cognizance for the offence beyond the period of punishment where maximum sentence is three years. Commencement of period of limitation is provided under Section 469, Cr.PC. It is provided that the period of limitation, in relation to an offender, shall commence on the date of the offence; or where the commission of the offence was not known to the person aggrieved by the offence or to any police officer, the first day on which such offence comes to the knowledge of such person or to any police officer, whichever is earlier; or where it is not known by whom the offence was committed, the first day on which the identity of the offender is known to the person aggrieved by the offence or to the police officer making investigation into the offence, whichever is earlier. Period of limitation shall commence from the date of offence or from the knowledge of commission of offence. Section 470, Cr.PC relates to exclusion of time.

5. There is no dispute as to the fact that the offence was committed between 20-10-1994 to 28-10-1994. When knowledge was acquired by the aggrieved party or by the investigating agency, the date of knowledge is an important factor to determine the period of limitation. Question involved in the case is whether cognizance is taken within three years from the date on which commission of offence came to the knowledge of the authority.

6. FIR was lodged on 11-4-2000 and in the FIR reason for delay is mentioned due to procedure under Government Rules. Thus, it is apparent that knowledge of commission of offence was acquired by the prosecuting agency after the

investigation and the date on which FIR is lodged, i.e., 11-4-2000. Cognizance is taken in the year 2001. Therefore, question of limitation if examined and the papers perused, it is clear that knowledge of commission of offence could be acquired only after completing the investigation which was completed in the year 2000. Therefore, at this stage, it can not be said that the said complaint is barred by limitation.

7. Section 469, Cr.PC relates to commencement of period of limitation. Sub-section (1) (b) provides that commission of the offence was not known to the person aggrieved by the offence or to any police officer, the first day on which such offence comes to the knowledge of such person or to any police officer, whichever is earlier. Thus, at this stage, no finding can be recorded that commission of offences was known to the complainant or prosecuting agency from the date the offence was committed. At this stage, it can be held that complaint is filed from the date of acquiring knowledge. Therefore, charges can not be quashed at this stage. However, if evidence is led to that effect in the Trial Court, petitioners can claim benefit of limitation in their defence in trial.

8. In the result, petition fails and is dismissed. Record of the Trial Court be sent back to the Trial Court so as to reach the Trial Court within two weeks. Petitioners shall appear before the Trial Court on 3rd of April, 2006. Since it is an old case, Trial Court shall endeavour to proceed with the case expeditiously and shall decide the case as early as possible.

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