

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.**

**Crl. Misc. No.M-12255 of 2015 (O&M)
Date of Decision: April 21, 2015.**

Brij Mohan Gupta

.....PETITIONER(s).

VERSUS

V.P. Sehrawat and others

....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Jaideep Vema, Advocate
for the petitioner (s).

SURINDER GUPTA, J.(Oral)

Heard.

The revision petitioner-complainant filed a complaint against the respondents alleging that on 16.05.2013, under a conspiracy, a notice was pasted on the wall of his house and thereafter, the elevation of the house were demolished. The petitioner then went to the office of District Town Planner, Bhiwani and asked the copy of the notice, where respondent No.2 Raj Kumar Junior Engineer admitted that he had demolished the elevation. After seeking the documents under the Right to Information Act, 2005, he filed the instant complaint.

Learned Judicial Magistrate, Charkhi Dadri vide order dated 02.12.2013 summoned the respondents for the offences punishable under

Sections 166, 167, 427, 506 read with Section 34 of Indian Penal Code. The respondents preferred the revision against the summoning order which was allowed by the Additional Sessions Judge, Bhiwani mainly on the ground that before carrying out the demolition, the revision petitioner was issued required notice under law and the required permission under Section 197 Code of Criminal Procedure (Cr.P.C.-for short) to prosecute the respondents was not obtained by the complainant.

Learned counsel for the revision petitioner has argued that the house/factory of the petitioner was on a road which does not fall within the definition of scheduled road and the provisions of the Punjab Scheduled Roads and Controlled Areas Restriction of Unregulated Development Act, 1963 were not applicable. The respondents have exceeded their power/jurisdiction/authority while demolishing the projection of the building of the petitioner, as such, the act done by them did not fall in the domain of the discharge of their official duties, requiring protection under Section 197 Cr.P.C.

Perusal of the paper book reveals that all the respondents are the government officials. They are posted in the office of District Town Planner, Bhiwani. Respondent No.1 is the District Town Planner while respondent No.2 is the Junior Engineer and respondent No.3 a Peon posted in that office at the relevant time. Perusal of the complaint as well as order passed by the revisional Court shows that the petitioner was served with notice before the action of demolition of the projection was

carried out. The petitioner, after the receipt of notice, had replied the same and then sought further time on the ground of his illness. He was even asked to get the unauthorized construction regularized. This reveals that the respondents had performed their official duties and act of demolition, even if, carried out by them, falls within the domain of discharge of their official duties for which the sanction under Section 197 Cr.P.C. was required before filing the complaint.

As to whether the road by the side of which house/factory of petitioner exists, is a scheduled road or the provisions of the Punjab Scheduled Roads and Controlled Areas Restriction of Unregulated Development Act, 1963 were applicable or not, is not a point to be ascertained in the complaint filed by the petitioner. If the petitioner is having any grievance in this regard, he could challenge the action of the respondents in appropriate legal proceedings and seek appropriate remedy. This complaint filed by the revision petitioner is an abuse on the process of Court. The revisional Court below has committed no illegality and the order passed by it is having no factual or legal infirmity calling for any interference under Section 482 Cr.P.C.

There is no merit in the instant petition. The same is dismissed.

April 21, 2015.
Sachin M.

(SURINDER GUPTA)
JUDGE