

IN THE HIGH COURT OF PUNJAB AND HARYANA CHANDIGARH

CRM-M-4485-2012(O&M)  
Decided on: 23.07.2015

Het Ram and another .....Petitioners

vs.

State of Haryana and others .....Respondents

**Coram: Hon'ble Mr. Justice Mahesh Grover**

Present: Mr. Sanjeev Patiyal, Advocate for the petitioners.  
Mr. Kuldeep Tiwari, Addl. A. G. Haryana.  
Mr. S.S.Kamboj, Advocate for respondents no.3 to 5.  
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**Mahesh Grover, J**

**CRM-22710-2015**

CRM is allowed, as prayed for.

Demarcation report Annexure D1 is taken on record, subject to  
all just exceptions.

**CRM-M-4485-2012**

The petitioners impugn the order dated 24.02.2011 as also the  
order dated 24.12.2011.

A complaint was preferred by the present respondents no.3 and  
5 under Section 133 Cr.P.C alleging that the petitioners had raised  
construction of a pipeline which was thus, creating nuisance by obstructing  
flow of water. The Asstt. Collector Ist Grade, Kalka vide its order dated  
24.02.2011 observed after inspection that in front of house no.1000/2, there  
is a water canal constructed and above this water canal, the petitioners have  
constructed pucca portion without any reason due to which rain water is  
obstructing resulting inconvenience and difficulty to the general public. He  
thus, confirmed that this comes in the definition of public nuisance as

contained in Section 133 of the Code of Criminal Procedure (hereinafter to be referred as 'Cr.P.C') and order removal of the obstruction. The order was upheld by the Court of Additional Sessions Judge when the petitioners filed a revision petition before him.

Learned counsel for the petitioners contend that the construction has been raised in his plot after taking permission from the Municipal Committee. He states that the construction is in accordance with the site plan and no nuisance has been created. Besides, it is contended that the complaint has been preferred by only one person and, therefore, it does not constitute public within the meaning of Section 133 Cr.P.C.

Learned counsel for the respondent, on the other hand, reiterates his plea which was raised before the authorities earlier.

During the course of pleadings, this Court had ordered the demarcation to be carried by Tehsildar which has since been done and there is some unauthorized occupation in the property of the petitioners by Rajinder Kumar and Prem Chand, who are the private respondents. If that be so, then the petitioners would be at liberty to take action against the encroachers in accordance with law and seek their eviction.

The impugned orders do not suffer from any infirmity. The plea of the petitioners that proceedings have been initiated by one person would be of no consequence as any person can bring to the notice of the authorities any act which causes obstruction or nuisance in the way, river or channel lawfully used by the public. The complainant has alleged construction of a canal which has been duly confirmed by the Asstt. Collector after inspection of this plot.

These are matters which center deeply on facts and thus, cannot be interfered with in the exercise of the jurisdiction of this Court under Section 482 Cr.P.C unless some illegality is shown in the process adopted by the authorities in arriving at a conclusion. There being no such illegality in the orders or in the process, I would not like to venture into the disputed area.

The petition is, therefore, dismissed.

The petitioner is at liberty to take up this matter with authorities despite the aforesaid order so as to satisfy them regarding the construction not being an obstructive to public cause.

**23.07.2015**  
mamta

**(MAHESH GROVER)**  
**JUDGE**