

THE HONOURABLE SRI JUSTICE RAJA ELANGO
CRIMINAL PETITION No.667 OF 2014

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ORDER:

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1. This petition is filed by the petitioner-accused under Section 482 Cr.P.C. seeking to quash the proceedings against him in Crime No.985 of 2013 on the file of Panjagutta Police Station, Hyderabad.

2. It is the case of the 2nd respondent-the Environmental Engineer, A.P. Pollution Board that on the complaint of K.P. Prabhakar Rao, IPS (retired), he inspected M/s. Mid Town Commercial Complex, Road No.1, Banjara Hills, Hyderabad on 7.11.2013 and found that the heavy duty AC machines fitted there are creating nuisance of sound pollution to the surrounding residents. It is stated in the complaint that during the time of inspection in the premises, the noise pollution is 70.4 dB(A) whereas the limit for the commercial area is 65 dB (A). Hence, the 2nd respondent lodged a complaint against the petitioner for the offence punishable under Section 16 of the Environment Protection Act.

3. Heard and perused the material available on record.

4. The main point raised by the learned Counsel for the petitioner is that even if it is assumed that the allegations made in the complaint are true, the complaint may not be sustained in view of Rule 7(1) of Noise Pollution (Regulation and Control) Rules, 2000. Rule 7 (1) reads as follows:

“Complaints to be made to the authority:- (1) A person may, if the noise level exceeds the ambient noise standards by 10dB(A) or more given in the corresponding columns against any area/zone or, if there is a violation of any provision of these rules regarding restrictions imposed during night time, make a complaint to the authority.”

5. As per Rule 7(1), the complaint has to be given to the authority, which can take necessary action. Rule 2(c) defines the authority as under:

“authority means and includes any authority or officer authorized by the Central Government, or as the case may be, the State Government in accordance with the laws in force and includes a District Magistrate, Police Commissioner, or any other officer not below the rank of the Deputy Superintendent of Police designated for the maintenance of the ambient air quality standards in respect of noise under law for the time being in force.”

As per the above rule, the competent authority is either the District Magistrate, or the Police Commissioner or any other officer not below the rank of Deputy Superintendent of Police, whereas the 2nd respondent who has taken action is other than the officers as mentioned in the above Rule.

6. According to the 2nd respondent, the noise standards for the commercial area 65 dB(A) day time and 55 (dB(A) night time. In the present complaint, it is stated that at the time of inspection of the premises, which is located in commercial area, the noise level observed is at 70 dB(A), which is 5 dB(A) more, than the prescribed standard in the corresponding columns. A complaint can be made if the noise pollution is more 10 dB(A) than the permissible limit.

7. In the light of Rule 7(1) of the Rules, this Court is of the view that the contention raised by the learned Counsel for the petitioner is sustainable and therefore, this is a fit case to quash the proceedings against the petitioner.

8. Accordingly, the Criminal Petition is allowed quashing the proceedings against the petitioner in Crime No.985 of 2013 on the file

of the Panjagutta Police Station, Hyderabad. Consequently, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE RAJA ELANGO

Date : 19.2.2016
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HONOURABLE SRI JUSTICE RAJA ELANGO

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DATED 19.2.2016

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