

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL REVISION CASE No.1833 of 2012

ORDER:

This revision is filed by the petitioner under Section 397 and 401 Cr.P.C. challenging the order in Roc.No.30/2012 (Notice, order of the removal nuisance under Section 133 Cr.P.C.) on the file of the Tahsildar and Executive Magistrate, Gopalapuram, West Godavari District.

The contention of the learned counsel for the respondent (petitioner herein) is that the Tahsildar cum Mandal Executive Magistrate, Gopalapuram, West Godavari District, passed the impugned order in violation of principles of natural justice. He further submitted that the learned Executive Magistrate has passed the orders without following the procedure as contemplated under Section 133 Cr.P.C. Per contra, learned counsel for the second respondent submitted that the petitioner herein started the factory without obtaining license from the competent authority.

Heard the learned Public Prosecutor.

The parties will be herein after referred to as they are arrayed before the trial Court.

A perusal of the record reveals that the petitioner is running M/s.Bismilla Bone Mill in R.S.No.303/27, Karicherlagudem village, Gopalapuram Mandal, West Godavari District after obtaining necessary permission from the Inspector of Factories, Eluru. A perusal of the record further reveals that the petitioner also obtained Value Added Tax Certificate from the Commercial Tax Officer, Mangalagiri Circle, Guntur Division. A perusal of the record reveals that the petitioner has been running the said mill after obtaining necessary permission from the concerned authorities.

The contention of the learned counsel for the respondent is that the petitioner has extended his business operations beyond his factory premises, thereby, causing much inconvenience to the locality people. Whether the activities carried on by the petitioner would cause inconvenience to the public or not is purely a question of fact. The learned Executive Magistrate straight away passed the order without giving any opportunity to the petitioner. Any order passed in violation of principles of natural justice is *non est* in the eye of law. As rightly pointed out by the learned counsel for the petitioner that the learned Executive Magistrate passed the orders without following the procedure as contemplated under Section 133 Cr.P.C.

Having regard to the facts and circumstances of the case, this Court is inclined to set aside the orders dated 26.07.2012 passed by the Tahsildar cum Mandal Executive Magistrate, Gopalapuram. The learned Mandal Executive Magistrate is hereby directed to pass orders in accordance with law after affording reasonable opportunity to both parties.

The Criminal Revision Case is accordingly allowed. As a sequel, the miscellaneous petitions, pending if any in this revision, shall stand closed.

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T.SUNIL CHOWDARY, J.

July 4, 2016

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