

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-10420-2012 (O&M)
Date of decision : 14.01.2016

Dharampal

..... Petitioner

Versus

Municipal Council, Rohtak

..... Respondent

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Amit Shivrian, Advocate, for
for the petitioner.

Mr. Sudhir Singh Hooda, Advocate,
for the respondent.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

KULDIP SINGH, J. (ORAL)

Impugned in the present petition is order dated 18.01.2012 passed by Learned Additional Sessions Judge (Fast Track Court), Rohtak affirming order dated 28.04.2010 passed by Sub-Divisional Magistrate, Rohtak vide which in a complaint filed under Section 133 Cr.P.C. by Municipal Committee, conditional order dated 10.10.2008 was made absolute regarding illegal closure of the workshop of the petitioner.

The allegations levelled in the complaint shows that the petitioner is running a work shop of denting and painting in the residential area without any permission or licence. Due to the loud noise of hammering and painting, lot of inconvenience is being faced by neighbourers of the locality. Vehicles are parked in the street

causing inconvenience to the residents. Shri Ranbir Singh, son of Ramchander, House No.1256/21-B, Hafed Chowk, Prem Nagar submitted a written complaint to District Collector, on which Municipal Council asked the respondent to stop the work of the shop in the residential area but he did not do so, on which a complaint was filed.

The Sub-Divisional Magistrate, Rohtak on 10.10.2008 passed the conditional order asking the respondent to stop the work of the shop and show cause as to why a show cause notice be not enforced. It comes out from the order of the Sub-Divisional Magistrate that respondent did not honour the conditional order and opportunity was given to the respondent to lead evidence and for this purpose 4 dates was given. The respondent had also filed written reply on 28.04.2010 without leading any evidence, wherein he mentioned that 37 other such kind of shops are also running in the city and that he is being targeted by the complainant.

Learned counsel for the petitioner contends that no opportunity of hearing was given to the present petitioner and that no enquiry was conducted and there is no evidence regarding such nuisance. Therefore, the impugned order of SDM is not sustainable in the eyes of law.

I have heard the learned counsel for the petitioner and have also carefully gone through the file.

It comes out from the complaint filed by Ranbir Singh before the District Collector that petitioner is running his shop without any permission or licence, which is adjacent to the house of complainant and a nuisance is being created. Nuisance can also be

assessed from the common knowledge whenever work of denting and painting is going on. It requires parking of the vehicle for denting and painting, the use of hammering and various machines. The mere fact that in the city, 37 other such kind of shops are going on is no ground not to grant relief in favour of the present petitioner.

Learned counsel for the petitioner further contends that there is no provision for such licence. However, he cannot be allowed to create nuisance in the residential area.

Learned counsel for the petitioner relied upon the authority of this Court delivered in case of '*Ram Lal vs. State of Haryana*' 2002(2) RCR (Criminal) 840 which shows that it was case of hurdle in the passage. Similarly, the authority of Kerala High Court in a case '*Malathi vs. State of Kerala*' 2003(3) RCR (Criminal) 25 has only persuasive value.

Therefore, this Court does not find any illegality and infirmity in the impugned order and finds no ground to interfere in the same.

As such, there is no ground to invoke the inherent powers of this Court under Section 482 Cr.P.C. Accordingly, the present petition stands dismissed.

January 14, 2016
Dinesh

(KULDIP SINGH)
JUDGE