

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

CRM M-10524 of 2012

Date of decision : 22.01.2016

Raju & ors.

....Petitioners

V/s

Rajinder Kumar Sharma & anr.

....Respondents

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. P.S. Ahluwalia, Advocate for the petitioners.

Ms. Puja Chopra, Advocate for respondent no. 1

Mr. Ankur Jain, AAG Punjab.

RAJAN GUPTA J.

This is a petition under section 482 Cr.P.C. for setting-aside orders dated 30.11.2010, Annexure P/2 passed by Sub Divisional Magistrate, Patiala and 13.12.2010 (Annexure P/3) passed by Additional Sessions Judge (Fast Track Court) Patiala respectively.

Learned counsel for the petitioners submits that petitioners have been using the generator of 5 KW for the last 14 years. According to him, no permission was required for installing a generator of 5 KW from any authority. He submits that court below have not considered the scope of section 133 Cr.P.C. in right perspective. He has relied upon judgment passed by this court in ***Makhan Lal vs. Buta Singh, 2003 (2) RCR (Criminal) 416*** in this regard.

Prayer has been opposed by learned counsel for respondent no. 1. She submits that noise & smoke pollution in the area have increased manifold due to use of the generator. According to her, major portion of the building on first and second floor was being owned by respondent no. 1. However, same was being damaged due to vibration and shivering caused by the generator which was a continuous source of nuisance.

I have heard learned counsel for the parties.

It appears that respondent no. 1 instituted a complaint under sections 133 & 144 Cr.P.C. before the court of Sub-Divisional Magistrate, Patiala on the ground that he was residing on the first floor of the building alongwith his family where petitioners had illegally installed a high voltage generator set of 8 KW. Due to use of said generator, cracks had emerged in the building. The noise and smoke released by the generator was causing adverse effect on health of family members. Thereafter, notice was issued and petitioners were given due opportunity of hearing. Sub Divisional Magistrate, Patiala inspected the spot. He found that running of generator was causing noise and shuddering in the building. He also observed that due to running of generator possibility of fire accident cannot be ruled out which may result in huge loss of life and property. Accordingly, he accepted the plea of the petitioner and directed the local police to remove the generator within a period of one week. Aggrieved, petitioners filed a revision before the court of Additional Sessions Judge (Fast Track Court), Patiala. Vide order dated 07.01.2012, same was dismissed. It appears that after order, Annexure P/2 was passed, petitioners moved an

application before the Sub Divisional Magistrate seeking some time to shift the generator to other place. Said authority granted fifteen days time to remove the generator. However, instead of shifting the same, they preferred revision before the court of Additional Sessions Judge (Fast Track Court), Patiala. I find no infirmity with the orders passed by the court below. Judgment relied upon by the petitioners cannot help the case of the petitioners. Petition is without any merit and is hereby dismissed.

January 22, 2016

Ajay

(RAJAN GUPTA)
JUDGE