

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

CRM-M-23703 of 2016 (O&M)

Date of decision : 31.08.2016

Partap Singh

...Petitioner

Versus

Santosh Gupta

...Respondent

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Sudhir Hooda, Advocate
for the petitioner.

JITENDRA CHAUHAN, J. (Oral)

This petition has been filed under Section 482 of the Code of Criminal Procedure for quashing of the impugned order dated 03.06.2015 (Annexure P-6), passed by learned Sub Divisional Magistrate, Rohtak and order dated 19.05.2016 (Annexure P-8), passed by learned Sessions Judge, Rohtak vide which the revision petition of the petitioner was dismissed.

It is contended that due to the noise pollution and nuisance of the generator which was installed in the year 2013 adjacent to the wall of the house of the petitioner, he and his family members are

suffering. It is also affecting the studies of the children of the petitioner. The spot inspection report of learned Magistrate is vague as the same was prepared without adopting any technical procedure to determine the level of noise pollution caused by the generator. The orders of both the authorities below are erroneous.

I have heard the learned counsel and carefully perused the record on file.

The petitioner had moved an application before SDM, Rohtak under Section 133 Cr.P.C. submitting that the diesel generator installed by the respondent right next to the wall of petitioner's house was causing nuisance to him and his family. Inspection report was called for and it was confirmed that a generator had been installed near the petitioner's house. Therefore, vide order dated 19.05.2014, the respondent was directed to install the generator at a distance of 4 feet from the house of petitioner by making a proper foundation for the same. Subsequently, the petitioner filed an execution petition for compliance of order dated 19.05.2014. Thereafter he filed another application dated 14.07.2015 before SDM, Rohtak with a prayer that the respondent had not complied with the order but it was observed that requisite action had been taken by respondent. In revision, petitioner went before learned Sessions Judge, Rohtak who dismissed the same

after considering the inspection report of learned Magistrate and observed that in compliance of order dated 19.05.2014 the generator had been installed at the distance of 4 feet from the house of petitioner and was no longer a source of noise pollution or nuisance to the petitioner.

Considering the fact that as per the spot inspection report of learned Magistrate, the generator is installed four feet away from the petitioner's house and is not creating any nuisance, the present petition is dismissed, in limine.

31.08.2016

ashok

**(JITENDRA CHAUHAN)
JUDGE**

Whether speaking/reasoned: Yes / No

Whether reportable: Yes / No