

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

**CRM-A-1243-MA-2016 (O&M)
Date of decision :01.11.2017**

Haryana State Pollution Control Board

..... Petitioner

Versus

Nirmal Kumar Jain

..... Respondent

CORAM : HON'BLE MR.JUSTICE H.S. MADAAN

Present : Mr. Deepak Manchanda, Advocate
for the applicant.

H.S. MADAAN, J.

Haryana State Pollution Control Board had filed a complaint under Section 15 of Environment Protection Act, 1986 against accused Nirmal Kumar Jain on the allegations that he had constructed a farm house No.F-25 at Aravali Retreat Raisina, Gurugram in violation of Notification No.SO319(E) dated 07.05.1992.

On presentation of the complaint in the Court, the accused was ordered to be summoned to face trial under Section 15 of Environment Protection Act, 1986 (hereinafter to be referred as “the Act”). The accused accordingly put in appearance and was admitted to bail.

The complainant led pre-charge evidence.

Finding a prima facie case charge for offence under Section 15 of the Environment Protection Act was framed against the accused, to which he pleaded not guilty and claimed trial.

Accused was given an opportunity to cross-examine PWs afresh after framing of charge.

Statement of accused was recorded under Section 313 Cr.P.C. in which all the incriminating circumstances appearing against the said accused were put to him but he denied the same and pleaded his innocence and false implication in this case.

The accused led evidence in defence.

After hearing arguments, the trial Court came to the conclusion that the complainant / prosecution had failed to prove on record that Notification No.SO319(E) dated 07.05.1992 was applicable upon the land of accused and that the construction in any shape made by the accused was made after issuance of Notification No.SO319(E) dated 07.05.1992, therefore, the accused was acquitted of the charge framed against him.

Feeling aggrieved the complainant has knocked at the door of this Court by moving an application under Section 378(4) Cr.P.C. seeking leave to file the appeal.

I have heard learned counsel for the complainant, besides going through the record and I find that no ground is made out to grant the relief prayed for. The judgment passed by the trial Magistrate is well reasoned one based upon proper appraisal and proper appreciation of the evidence and correct interpretation of law. There is no illegality or infirmity which might have called for interference by this Court by granting leave to appeal

and exercising appellate jurisdiction. Furthermore the application has been filed belatedly by 240 days and no justifiable reason for the delay could be explained in the application under Section 5 moved by the complainant for condonation of delay. Similar petitions filed in several other cases based upon similar facts have resulted in their dismissal. Therefore, the application under reference stands dismissed.

01.11.2017

Gaurav Sorot

**(H.S. MADAAN)
JUDGE**

1. Whether reportable? **No**
2. Whether speaking / reasoned? **Yes**