

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

**CRM-A-367-MA-2016
Date of decision :03.11.2017**

Haryana State Pollution Control Board

..... Petitioner

Versus

Kuldip Sahdev and others

..... Respondents

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

Present : Mr. Sharad Aggarwal, Advocate
for the applicants.

H.S. MADAAN, J.

Haryana State Pollution Control Board had filed a complaint under Section 15 of Environment Protection Act, 1986 against the accused on the allegations that they had constructed a farm house No.D-27 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 were 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 were 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 they pleaded not guilty and claimed trial, whereas accused No.7 was discharged.

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

Statements of accused were recorded under Section 313 Cr.P.C. in which all the incriminating circumstances appearing against the said accused were put to them but they denied the same and pleaded their 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 were acquitted of the charge framed against them.

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. Similar petitions filed in several other cases based upon similar facts have resulted in their dismissal. Therefore, the application under reference stands dismissed.

03.11.2017*Gaurav Sorot*

**(H.S. MADAN)
JUDGE**

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