

SMT. JUSTICE T. RAJANI

CRIMINAL PETITION No.1748 OF 2013

ORDER:

The present Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973, is filed by the petitioners seeking to quash the order, dated 11.02.2013, passed in M.C. No.1 of 2007, by the Sub-Divisional Magistrate and Revenue Divisional Officer, Vizianagaram, by virtue of which, respondent No.1 - Sub-Divisional Magistrate has directed the petitioners herein to shift their shop to some other place where there are no residential houses.

2. Heard the learned counsel for the petitioners, learned counsel for respondent No.2 and the learned Public Prosecutor appearing for the State of Andhra Pradesh.

3. The learned counsel for the petitioners submits that the order is liable to be quashed on two grounds; one being that the area, in which shop of the petitioners is located, is a commercial area; and the other being that even respondent No.2 herein has a similar shop in the same locality and, hence, question of noise produced from the shop causing nuisance and sound pollution does not arise.

4. A perusal of the impugned order shows that respondent No.1 - Sub-Divisional Magistrate and Revenue Divisional Officer, Vizianagaram, has recorded that the area, in which the shop of petitioners is located, is a residential area, and the same was reported by

the Environmental Engineer, Pollution Control Board, Vizianagaram. The learned counsel for the petitioners points out the Value Added Tax Registration Certificate, dated 29.05.2007, issued by the Commercial Tax Officer, VAT Registering Authority, Commercial Taxes Department, Vizianagaram, showing the place of business of the petitioners at 16-7-17, Sharif Khan Street, Vizianagaram. But, from the said certificate, it cannot be understood that the area, in which the petitioners' shop is located, is a commercial locality. Hence, these are all questions of fact, which are to be adjudicated by proper Forum. Further, right of revision against the impugned order is to the District Judge.

5. Considering all these aspects, this Court opines that it is not a fit case to quash the impugned order and, consequently, the present Criminal Petition is dismissed.

Consequently, Miscellaneous Petitions, if any, pending in the present Criminal Petition stand closed.

SMT. T. RAJANI, J

December 14, 2018

Note:

Furnish C.C. of order within two (2) days.
(B/O.)Mgr