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1. CRR-3504 of 2015
Date of Decision : December 07, 2018

Versus

2. CRR-3528 of 2015

Versus

3. CRR-3480 of 2015

Versus

4. CRR-3535 of 2015

Versus

Pardeep Kumar ...Respondents.

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN.

Present Mr. Vinish Singla, Advocate,
for the Revision-petitioner.

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SHEKHER DHAWAN, J.

As common questions of law and facts are involved in these above titled four revision petitions, with the consent of learned counsel for the petitioner, all these revision petitions are being taken up together for disposal.

2. For facility of reference, facts are being taken from **CRR- 3504 of 2015 - Nagar Panchayat, Bhadson vs. Ram Chand.**

3. Present revision petition is directed against the order dated 3.4.2014 passed by learned Judicial Magistrate Ist Class, Nabha and order dated 3.6.2015 passed by learned Sessions Judge, Patiala whereby complaint filed by Nagar Panchayat, Bhadson under Section 195-A of the Punjab Municipal Act, 1911 (for short, the Act) was dismissed.

4. As per the prosecution story, respondent – accused had started raising construction of shop situated at Nabha Road, Bhadson vide report dated 12.9.2011 without getting any permission to construct the shop as required under the Act. The Building Clerk submitted the report regarding above construction. Notice No. 250 dated 12.9.2011 under Section 195-A of the Act was issued to the accused, which was duly responded by him on 22.9.2011, but the accused did not stop the construction work. Oral request was also made to stop the construction, but to no effect and thereafter, he completed the construction in the month of April, 2013. As such, accused committed offence under Section 195-A of the Act and the complaint was filed.

5. After trial, learned Magistrate vide orders dated 3.4.2014 dismissed the said complaint mainly on two grounds that the complainant

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failed to prove (i) ownership of the accused over the alleged shop even, if any notice was served upon him and (ii) the construction work was going on and the same was not complete on the date of issuance of notice.

6. Learned Sessions Judge, Patiala dismissed the appeal filed by the present petitioner and as such the present revision petition before this Court.

7. Learned counsel representing the revisionist has also raised both these please before this Court that in fact, the notice was served upon the accused in his capacity as owner of the shop as he was raising the construction and the said notice was received by him. He had not responded to the notice in any way or denied his status as owner of the shop. As regard to the process of construction, the same was not complete rather the same was completed in April, 2013.

8. Having considered the submissions made by learned counsel for the petitioner and appraisal of the record, this Court is of the considered view that the petitioner-Nagar Panchayat has not been able to produce any document showing that the respondent herein was the owner of the shop or in his capacity as such, he was liable for commission of offence punishable under Section 195-A of the Act. Secondly, there is nothing on record to establish that the construction was continuing thereafter.

9. Learned Courts below have rightly placed reliance upon the testimony of Sukhdev Kumar, Junior Assistant, who appeared as CW-1 and during his cross-examination, he had admitted that there was no material available on the file that accused was owner of the shop or that

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the construction was being raised by the accused and that he failed to stop the construction despite notice. He has further admitted that as per record, ownership of property, i.e. shop, was not verified. The other important fact having been admitted by CW-1 is that notice was issued in the year 2011 and report was made in the year 2013 and there is no explanation on the file or reasoning having been given as to why there was inordinate delay in submission of such a report.

10. Both the Courts below have already considered all these aspects and passed the orders under challenge and returned the finding that the offence under Section 195-A of the Act is not made out against the respondents.

11. Resultantly, the present revision petitions are without any merit and the same stand dismissed.

(SHEKHER DHAWAN)
JUDGE

December 07 , 2018
k/som

Whether speaking/reasoned?	:	Yes
Whether reportable?	:	Yes