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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.M.C. 1218/2016

PRABHU NATH RAI

..... Petitioner

Through: Mr. Satyam Thareja, Advocate

versus

STATE & ORS

..... Respondents

Through: Mr. K.S. Ahuja, APP for the State

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

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06.12.2018

The first information report (FIR) No.873/2014 was registered by Police Station Saket at the instance of the petitioner. Pursuant to the investigation that was carried out, a report under Section 173 of the Code of Criminal Procedure, 1973 (Cr.P.C.) – charge sheet – was submitted seeking prosecution of the second to fourth respondents for offences punishable under Sections 323/341/34 of Indian Penal Code, 1860 (IPC).

On 12.02.2016, the petitioner and the said accused persons submitted before the trial magistrate that they had compounded the offences. Their statements were recorded and this led to the order dated 12.02.2016 of the metropolitan magistrate acquitting the accused persons, the offences having been lawfully compounded in terms of Section 320 Cr.P.C. It appears, in the course of statement to this effect the accused persons had given an undertaking to remove the *kabari* shop (scrap dealer business) which, it was admitted, was even otherwise “illegal”. It is explained at the hearing on the petition that it was the said business which was causing nuisance, and

having become, *inter alia*, the cause of the dispute.

By the petition at hand invoking the inherent jurisdiction of this court under Section 482 Cr.P.C. the first informant/complainant of the aforementioned criminal case seeks its revival, by setting aside the order of acquittal rendered on 12.02.2016 on the basis of compounding under Section 320 Cr.P.C. on the ground that the respondents have continued to cause nuisance, they being still operative from a nearby premises in the same area.

To say the least, the petition is wholly ill-advised and misconceived. The undertaking to remove the *kabari* shop from the adjacent premises of the shop of the complainant/petitioner may have been added in the statement concerning the prayer for compounding of the offences under Sections 323/341/34 IPC. But then, such undertaking cannot be construed as a permanent restraint order against the respondents from carrying out their trade from any premises in the same locality. If such business in which the respondents have continued to be engaged is unlawful, or a matter of nuisance, or in breach of any municipal bye-laws or causing of obstruction to right of way, or in any manner otherwise violative of any penal or other laws, the petitioner has the liberty to pursue the appropriate remedies before the concerned authorities in such regard. The subsequent conduct cannot result in the proceedings in the criminal case to be reopened, not the least when the offences involved therein primarily related to offence affecting the human body which were voluntarily compounded.

The petition is dismissed.

R.K.GAUBA, J.

DECEMBER 06, 2018/vk