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IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on: 10th September, 2018

+ CRL.M.C. 1588/2016 and Crl.M.A.6774/2016

M/S. HOME STORES INDIA PRIVATE LIMITED

..... Petitioner

Through: Mr. Vinod Kumar Singh, Advocate

versus

SOUTH DELHI MUNICIPAL CORPORATION

..... Respondent

Through: Ms. Arunima Dwivedi, Adv. with
Ms. Preeti Kamra, Advocate

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER (ORAL)

1. On the complaint (challan No.2033) of the respondent corporation, the petitioner is sought to be prosecuted for the offence under Section 417 read with Section 430 of the Delhi Municipal Corporation Act, 1957. The order dated 29.10.2014 of the Metropolitan Magistrate taking cognizance and issuing summons against the petitioner was challenged by the petitioner in the court of Sessions invoking its revisional jurisdiction by petition (Criminal Revision No.13/2016) which was dismissed by order dated 10.03.2016.

2. The petitioner has come up to this court under Section 482 of the Code of Criminal Procedure, 1973 (Cr.P.C.) to seek quashing of the said proceedings.

3. The case of the respondent Corporation in the *challan* is that the petitioner was operating a shop in the subject premises without a license. It is the contention of the petitioner that he holds a licence under the Delhi Municipal Corporation Act, 1957 which was valid and effective on the date the alleged offence was committed. Whether or not a valid licence existed on the crucial date gives rise to a question of fact which ordinarily would be subject matter of scrutiny by the trial court. [see *Rajiv Thapar and Ors. Vs. Madan Lal Kapoor, (2013) 3 SCC 330*].

4. There is no reason why the petitioner cannot present the documents showing due authorization and licence to the trial court in the summary procedure that emanate from the afore-mentioned challan and seek necessary relief from the said forum.

5. The petition is wholly misconceived. It is dismissed with costs of Rs.10,000/- to be deposited within a week with District Legal Services Authority.

6. This disposes of pending application as well.

R.K.GAUBA, J.

SEPTEMBER 10, 2018

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