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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.3303 OF 2019

M/s.Thackers Caterers ...Petitioner
vs.
The State of Maharashtra & Ors. ...Respondents

Mr.G.S.Godbole with Mr.Govind Solanke with Mr.Sanjay
Dudhane I/b PNP & Associates for the Petitioner
Ms Sangita Shinde, APP for State
Mr.Madhusudan Prateek the respondent Nos.5 and 6.

CORAM : RANJIT MORE AND
SMT.BHARATI H.DANGRE,JJ.
DATE : JULY 19, 2019

P.C.:

1 The petitioner engaged in catering business and running a restaurant, a banquet hall at Girgaum Chowpatty has approached this Court being aggrieved by the stipulation contained in the licence/permission accorded by the Police Department permitting him to use loudspeakers. The grievance of the petitioner is that the permission permitting the petitioner to play loudspeakers in terms of the Noise Pollution (Regulation and Control) Rules,2000 framed under the Environment Protection Act,1986, the stipulation contained therein to the following effect is posing inconvenience to the petitioner:

"Inspite of the fact that there is permission to use the loudspeakers, on receipt of complaint the use of

the loudspeakers can be stopped by the police" ?

2 The learned counsel for the petitioner submits that the incident of obstruction by the local police is on account of false allegations and frivolous complaints preferred by the respondent Nos.5 and 6. This prompted the petitioner to approach this Court.

3 We have heard the learned counsel Shri Godbole, learned APP as well as learned counsel for the respondent Nos.5 and 6.

On earlier date, we had directed the learned APP to produce before this Court the record of action taken by the Police Authorities when the complaint is received. The learned APP has placed before us the relevant record including the Station Diary and the police report dated 28th February 2019 of Sub-Inspector of D.B.Marg Police Station. Perusal of the said report disclose that on complaint being received, the police officials had visited the place and recorded readings of the noise level at the spot as well as at the residence of the complainant. After carrying out necessary verification, a letter has been addressed to the complainant pointing out that no violation of the Noise Pollution Rules is noted. The learned counsel for the respondent Nos.5 and 6 makes a serious grievance on occasion since noise pollution level has increased, they were compelled to make a complaint.

4 We have taken into consideration the
submissions of both the Counsel. We have heard the
petitioner who has invoked the writ jurisdiction of
this Court alleging that not permitting to carry out
his business on account of obstruction of the Police
Department is violative of principles of natural
justice whereas the citizens like respondent Nos.5
and 6 are constrained to approach the Police
Department to take action for noise pollution, with
averment that noise free atmosphere is their
fundamental right.

 In this situation the Police Authorities have
rightly taken recourse to the said Regulation, 2000.
Whenever any complaint is made, they are duty bound
to take into consideration such complaint and if the
noise level exceeds the permissible decible limit,
then it is imperative for them to take action.
However, at the same instance, merely because some
frivolous and vexatious complaints are made, without
verification and factually measuring the noise
levels, the petitioner cannot be obstructed in
carrying out his business.

5 In such circumstances, we are of clear opinion
that the stipulation contained in the permission
accorded in favour of the petitioner cannot be
considered as blanket power conferred on the Police
Officers to stop the function being held in the
premises of the petitioner but only after due
verification if the noise level exceeds permissible

limit, the Police officials can stall the use of loud speakers or music system in the function . The learned APP on instructions made a categorical statement that the police need not stall the function of the petitioner and running of his business which include playing of music for which due permission is sought by him. However, if any such complaints are received from the citizens, the police officials will verify as they have done in the past and when any violation is noted, then the petitioner can be asked to reduce the noise level with the clear understanding in mind that the matter has to be looked into from the angle of all the stakeholders involved i.e the petitioner, respondent Nos.5 and 6 as well as police Department.

6 It is always open for the Police officials to measure the noise level at the spot/venue where the function is in progress. We say nothing more than this and dispose of this petition. We make it clear Police officials are free to issue directions to the petitioner to bring the noise level within permissible limits if found to be exceeding.

(SMT.BHARATI DANGRE,J.)

(RANJIT MORE,J.)