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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-S-2900-SB-2010 (O&M)
Date of decision : 17.01.2019

Municipal Council, MuktsarAppellant.

Versus

Harinder Singh Gill Respondent.

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Amit Singh Sethi, Advocate for the appellant.

Mr. D.S. Brar, Advocate for respondent.

1. *Whether the Reporters of local newspaper may be allowed to see the judgment ?*
2. *To be referred to the Reporter or not.*
3. *Whether the judgment should be reported in the digest ?*

KULDIP SINGH J. (ORAL)

Heard.

This is an appeal against the judgment of 28.3.2009 passed by learned Chief Judicial Magistrate, Muktsar vide which complaint filed by appellant-Municipal Council, Muktsar under Sections 195/195-A read with Section 219 of the Punjab Municipal Act, 1911 (for short 'the Act') was dismissed.

The allegations against the accused-Dr. Harinder Singh Gill are that he constructed the building without the sanction of the Municipal Councilor, Muktsar. He was served with a notice under Sections 195/195-A of the Act to demolish the illegal construction but he did not do so, hence he committed the offence under Sections 195/195-A of the Act.

It comes out that trial Court after recording the evidence acquitted the accused on the ground that ownership of the building was not proved. The building is in fact owned by Adesh Hospital and Research Centre Private Limited, which is a company and not by Dr. Harinder Singh Gill-respondent. The said company was not made as party.

Learned trial Court further noticed that the spot inspection report i.e. Annexure P-3/B has been relied upon. There is no mention about the date of the spot inspection. In the notice under Section 195-A of the Act, no details of the construction which is required to be demolished were given.

Learned trial Court further noticed that as per the statement of Pardeep Kumar-Clerk (PW-3) when he visited the spot, Adesh Hospital and Research Centre Private Limited was running at the site, which shows that construction was already complete. It was not shown that the said notice was served within six months from the date of completion. Notice in this case was served by Tirath Singh Serwadar, who was not examined. Rather one PW-Raj Kumar, Sewadar was examined to prove the notice who admitted that notice was not personally served upon accused-Dr. Harinder Singh Gill. In this way, trial Court has come to the conclusion that offence as alleged against the accused-Dr. Harinder Singh Gill is not proved.

I am of the view that trial Court has given cogent reasoning for holding that the charges against the accused-Dr. Harinder Singh Gill are not proved and the trial Court has taken the only possible view on the basis of the appreciation of the evidence. There is no ground to interfere in the order dated 28.3.2009 passed by learned Chief Judicial Magistrate, Muktsar.

Appeal stands dismissed accordingly.

(KULDIP SINGH)
JUDGE

17.01.2019
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Whether speaking / reasoned
Whether Reportable:

Yes
No