

**121 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Date of decision-09.07.2019

1. CRM-M-22159-2019

M/S S.M.Industries and others	...Petitioners
Vs.	
Haryana State Pollution Control Board	...Respondent

2. CRM-M-22207-2019

M/S Nirman Industries and others	...Petitioners
Vs.	
Haryana State Pollution Control Board	...Respondent

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Ms. Amrita Nagpal, Advocate for the petitioners.

MANOJ BAJAJ, J. (Oral)

This judgment will dispose off the above mentioned two petitions i.e. CRM-M-22159-2019, titled as “M/S S.M.Industries and others Vs. Haryana State Pollution Control Board” and CRM-M-22207-2019, titled as “M/S Nirman Industries and others Vs. Haryana State Pollution Control Board”. However, the facts are being extracted from CRM-M-22159-2019.

Petitioners have filed this petition under Section 482 of Code of Criminal Procedure for quashing of criminal complaint No.2 of 2015 registered under Sections 37 and 38 of Air (Prevention and Control of Pollution) Act, 1981 (in short 'the Act') titled as “HSPCB Vs. M/s S.M Industries & Others” as well as the summoning order dated 28.01.2016 (Annexure P-2).

Learned counsel for the petitioners contends that the complaint as well as the summoning order are nothing but an abuse of process of law as the petitioners were under the impression that previously the unit which was operational at some other place, had the requisite consent by the competent authority and the same would be equally admissible at the present place where the unit was shifted. It is not disputed by learned counsel for the petitioners that the sample was drawn and the same had failed resulting into the proceedings under the Act.

At this stage, learned counsel for the petitioners has contended that subsequently, permission was also granted vide order dated 02.08.2016 (Annexure P-6) to run the unit at the existing place. The allegations in the complaint are based on documentary material and therefore, this Court finds that the summoning order is based on correct appreciation of the material on record. Further the subsequent permission granted by the competent authority was of no help, as the offence in the complaint pertains to the period for which there was no permission from the Pollution Control Board.

Learned counsel for the petitioners is unable to point out the stage of the complaint which was filed in the year 2015. It appears that the complaint must be at an advanced stage by now and therefore, this Court does not find any reason to interfere with the petition.

Resultantly, both petitions are dismissed.

(MANOJ BAJAJ)
JUDGE

09.07.2019

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Whether speaking/reasoned :

Yes

No

Whether Reportable :

Yes

No