

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

**Crl. Revision No. 1124 of 2016
Date of Decision: July 19, 2019**

Addl. Chief Administrator Bathinda

.....PETITIONER

VERSUS

Jagmeet Singh and another

.....RESPONDENTS

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Ashish Grover, Advocate
for the petitioner.

None for respondent No. 1.

Mr. Arpinder Singh Sidhu, D.A.G., Punjab
for respondent No. 2.

SURINDER GUPTA, J.(Oral)

Heard.

A FIR was registered on the complaint filed by Additional Chief Administrator, PUDA, Bathinda for taking action against the private respondent for violation of the provisions of Section 36 of the The Punjab Apartment and Property Regulation Act, 1995 (later referred to as Act of 1995). The allegations levelled in the complaint are that respondent No. 1 had carved out plots from his land comprised in khewat No. 400, 401 khatauni No. 652, 653 situated in Jalalabad, District Ferozepur, thereby violating the provisions of Section 2(i) 5 and 21 of the Act of 1995.

Learned trial Court acquitted respondent No. 1 on two grounds firstly that the carving out of plots by him for residential, commercial or building purpose is not proved and secondly that the prosecution has failed

to prove that requisite sanction of the competent authority was taken before launching the prosecution.

Learned Ist Appellate Court upheld the view taken by the learned trial Court.

Learned counsel for the petitioner has argued that the prosecution was launched on the complaint of Additional Chief Administrator, PUDA, Bathinda, who was a competent authority under the Act of 1995 to initiate the prosecution, as such, the observations of Courts below on this score are not legally tenable.

Section 38(1) of the Act of 1995 reads as follows:

Prosecution and composition of offences.:- (1) No prosecution for any offence punishable under this Act shall be instituted except with the previous sanction of the competent authority or any person authorised in this behalf by the competent authority.

The competent authority has been defined under Section 2 (1) of the Act as follows:

“competent authority” means any person or authority appointed by the State Government, by notification in the Official Gazette, to exercise and perform all or any of the powers and functions of the competent authority under this Act and the rules made thereunder;

This fact is not disputed that no notification of the Government declaring/appointing Additional Chief Administrator, PUDA, Bathinda as competent authority under the Act was produced before the Courts below. The complainant had not appeared as witness to state that he was a competent authority. Even PW-3-Dharam Chand Assistant Engineer,

Administrator, PUDA, Bathinda has nowhere stated that he was appointed as a competent authority to institute the prosecution of the respondent.

In view of lack of evidence on this score, the Courts below have committed no error while holding that prosecution has failed to prove on record the sanction of the competent authority to institute the proceedings under the Act. Even on perusal of the trial Court record, any notification issued by the State Government appointing Additional Chief Administrator, PUDA, Bathinda a competent authority could not be traced.

In view of the above, I find no reason to interfere with the judgments of the Courts below. This revision petition has no merits.

Dismissed.

(SURINDER GUPTA)
JUDGE

July 19, 2019
Jyoti-II

Whether speaking/reasoned: ***Yes/No***
Whether Reportable: ***Yes/No***