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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-20229-2022 (O&M)
Date of decision: 14.09.2023

MANJEET KAUR

...Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. K. S. Hissowal, Advocate
for the petitioner.

Mr. Harsimar Singh Sitta, DAG, Punjab.

JASGURPREET SINGH PURI, J. (Oral)

1. The present petition has been filed under Section 482 Cr.P.C. seeking issuance of direction to the respondents especially respondent No.2 to take appropriate action against the private respondents who used to quarrel with the petitioner and harassed and humiliated her by increasing the volume of loud speakers of Gurudwara Sahib again and again by violating the instructions issued by Punjab Pollution Control Board and when the petitioner made a request to them, they threatened the petitioner with dire consequences and further direction is sought to be issued to other official respondents to lodge a case/FIR against the private respondents who are violating the instructions issued by the Hon'ble Supreme Court and High Court by playing high volume at Gurudwara Singh Sabha, Bhadson.

2. Learned counsel for the petitioner submitted that it is a case where the petitioner is a resident of Bhadson town in Patiala District and there is a Gurudwara Sahib in the vicinity of the said town and the petitioner lives around the aforesaid Gurudwara Sahib. He further submitted that from long time, the petitioner has been facing the difficulty of high volume of loud speakers for which she had raised her grievances before the Executive Authorities including the Teshildar and the concerned SDM but the problem was not remedied by the authorities and therefore the present petition has been filed seeking directions in this regard. He further submitted that earlier the petitioner had filed CRM-M-31493-2018 and a Coordinate Bench of this Court had disposed of the aforesaid petition on 17.12.2018 vide Annexure P-1. In the aforesaid petition, two-fold grievances were raised. Firstly, that a dharna is being held in front of the house of the petitioner by about 150 people to terrorize the petitioner and secondly, that loud volume is being raised from the speakers of Gurudwara Singh Sabha which causes disturbance to the petitioner. A Coordinate Bench of this Court vide order dated 17.12.2018, while dealing with the first prayer of the petitioner with regard to dharna did not make any observation because at that point of time, the petitioner herself had stated that now the dharna has been lifted and the Government has already initiated proceedings under Section 107, 151 of the IPC against 10 accused persons. So far as the second prayer of the petitioner regarding high volume of speaker is concerned, a direction was issued to the concerned Deputy Commissioner to convene a meeting with all the religious institutions within his jurisdiction situated in village Bhadson, Tehsil Nabha, District Patiala to ensure that the volume of speaker of these

institutions is cut down to minimum to ensure that sleep and life of people living in the area is not disturbed and in case the directions are violated, then the petitioner can again come to this Court seeking enforcement of this order. He further submitted that despite directions issued by this Court, no such action was taken by the concerned Deputy Commissioner and therefore the petitioner filed a contempt petition bearing COCP-314-2022, which has been disposed of as having been rendered infructuous by a Coordinate Bench of this Court on 26.07.2023. He further submitted that in view of the aforesaid position, necessary directions are required to be issued to the official respondents to take action against the private respondents and to ensure that the volume of the speakers of the Gurudwara Sahib does not exceed the permissible limits which are so prescribed by the Punjab Pollution Control Board.

3. On the other hand, Mr. Harsimar Singh Sitta, DAG, Punjab while referring to the affidavits dated 31.05.2023 and 21.08.2023 which have been filed in the present case submitted that the present is a petition filed under Section 482 Cr.P.C. which is not maintainable since there is no allegation of abuse of any process of law by any authority below. He further submitted on merits that on the basis of allegations levelled by the petitioner against the private respondents with regard to increasing of the volume of speakers, an inquiry was got conducted through SHO, Police Station Bhadson, which is attached as Annexure R-1 and according to the inquiry report, it has been found that the statements of the house owners living around Gurudwara Singh Sabha, Bhadson i.e. Pritpal Singh son of Jaswinder Singh, Jaswinder Singh son of Prem Singh, Gurpreet Kaur wife of Kuljit Singh, Jagdeep Singh son of Late

Baldev Singh, who are residents of Ward No.9 near Gurudwara Singh Sabha, Bhadson, Sukhjinder Singh Dharmi son of Swaran Singh, resident of Ward No.2 Bhadson and a group of other shopkeepers around Gurudwara Singh Sabha, Bhadson and the Management Committee of Gurudwara Singh Sabha, Bhadson were recorded separately. From the statements of various persons, it has been found that the sound of the loud speakers of Gurudwara Singh Sabha is heard inside the boundary of Gurudwara Sahib and whenever any department announces the plans of the Government or any other official announcements, only then the sound of the loud speaker is conveyed to the people and the general public is informed about the facilities of the Government. He submitted that it was also found that the owners of the residential houses around the Gurudwara Sahib reported that the sound of the loud speaker of the Gurudwara Sahib has not been heard outside the boundary wall of the Gurudwara Sahib. All the houses of the house owners and shops of the shopkeepers whose statements were recorded, come within the radius of about 70-80 meters from the Gurudwara Sahib, whereas the house of the petitioner is situated at a distance of 450-500 meters away from the Gurudwara Singh Sabha. Learned State counsel while further referring to the affidavit dated 21.08.2023 filed by the Superintendent of Police, Sub-Division Nabha, District Patiala also submitted that in fact the reason as to why a complaint has been filed by the petitioner was that one Amarjit Singh Tiwana, President of Gurudwara Singh Sabha Committee has earlier got registered an FIR No.5 dated 11.01.2020 under Sections 419, 420, 465, 468, 471 and 120-B of the IPC, at Police Station Bhadson against the petitioner which is pending trial before the learned trial

Court and it was only because of this grudge that the petitioner and her father are continuously filing applications against the Management Committee of Gurudwara Sahib and its office bearers. The sound of the speaker of Gurudwara Sahib is made high only at the time of Munadi/other announcement or when there is a Gurupurab or Martyr's day which is to be celebrated by the Committee and the Committee gets the approval of the speaker from the local Magistrate and installs the loud speakers. He further submitted that earlier the petitioner had filed a petition under Section 133 Cr.P.C. before the Court of learned Sub-Divisional Magistrate, Nabha, which was decided on 22.10.2018 (Annexure P-8) and according to the said order it has been found that the house of the petitioner is at a distance of $\frac{1}{2}$ km. from Gurudwara Sahib and she has raised objection regarding reading/pronouncing Hukamnama/prayer in loud speakers at 04:00 A.M. due to which she faced problem and Amarjit Singh, President of Gurudwara Sahib in his statement has accepted this fact about reading/pronouncing Hukamnama/prayer in loud speakers at 04:00 A.M. He further submitted that apart from the present Gurudwara Singh Sabha Sahib, there are three other Gurudwaras, four Temples and one Masjid near the house of the petitioner and the other local residents. While further referring to the said affidavit, he submitted that according to the report of the Environment Engineer, Punjab Pollution Control Board, Patiala, if volume of loud speakers lies within the boundaries of Gurudwara Sahib, then it is correct according to the rules.

4. He further submitted that when the petitioner earlier filed a petition before this Court as aforesaid which was disposed of vide Annexure P-1, then in

compliance of the aforesaid order, a meeting of the District Administration and various heads of the religious institutions was held on 04.02.2019 under the Chairmanship of Deputy Commissioner, Patiala and a copy of the proceedings is attached as Annexure R-2. As per the proceedings of the said meeting, at the beginning of the meeting, the Assistant Commissioner (Grievances) gave detailed facts to the Presiding Officer about the case. It was XEN, Punjab Pollution Control Board who had disclosed that their J.E. and SDO have visited the house of the petitioner and during the visit it was found that the loud speaker above the Gurudwara Sahib was not in use and only the speakers inside the Gurudwara Sahib were in use and the sound did not reach the petitioner's house. On reaching the spot, father of the petitioner was informed through his mobile and he was present outside the house during the visit and he told at the spot that whenever the Committee of Gurudwara Sahib Ji receives any instruction/letter from the District Administration, they stop the use of loud speakers for few days and he requested the Presiding Officer to instruct Gurudwara Singh Sabha to remove the speakers on the roof of Gurudwara Sahib so that the speakers cannot be used again. Summons were sent to the petitioner to attend the meeting to which she refused to accept. According to the complaint of the petitioner, there was a dharna outside her house. The SHO, Bhadson told that when he reached at the house of the petitioner regarding the abovesaid case, no dharna was found outside the house. Learned State counsel also submitted that during the meeting, the Deputy Commissioner, Patiala instructed the Naib Tehsildar, Bhadson, SHO, Bhadson, XEN, Punjab Pollution Control Board and the heads of the religious institutions of village Bhadson that

as per the orders of the Hon'ble Supreme Court, the use of loud speakers have been banned from 10:00 P.M. to 06:00 A.M. and it should be ensured that the orders of the Hon'ble Supreme Court are strictly complied with and the peace of people should not be disturbed. The sound of the loud speaker should be turned off so that the general public do not face any kind of problem.

5. Learned State counsel has filed another reply by way of an affidavit of Sub-Divisional Magistrate, Nabha dated 14.09.2023 in Court today in which most of the aforesaid facts are reiterated and in addition, it has been stated in the affidavit that another inspection was conducted by Naib Tehsildar, Bhadson on 27.05.2022 and according to the report, it has been found that he himself inspected the spot around Gurudwara Singh Sabha on 27.05.2022 at around 04:00 P.M. alongwith his staff and at the spot it was found that the recitation of Sri Sukhmani Sahib was going on and the speaker was also on and even though the speaker was on, the volume of the said speaker was limited to inside the boundary of Gurudwara Sahib and not outside the boundary of Gurudwara Sahib and it was not even known that whether the recitation of Sri Sukhmani Sahib was going on inside the Gurudwara Sahib or not. Apart from this, the speakers have been installed in Bunga of Gurudwara Singh Sabha, which are being used only in emergency i.e. in event of floods and during Covid or in Police Station/hospitals and these speakers are used on the eve of any public incident. The officials also interacted with the people residing around Gurudwara Sahib, who disclosed that they have never heard the loud volume coming out from Gurudwara Sahib nor they have faced any difficulty from the speakers of Gurudwara Sahib. Apart from the above, the Engineer of

Punjab Pollution Control Board had inspected Gurudwara Sahib in the evening of 02.05.2022 and he had reported that no speaker was found working. He also inquired from neighbouring shopkeepers and public around the Gurudwara Sahib and they did not raise any complaint regarding playing of speakers. Still the Engineers of Punjab Pollution Control Board directed the management to comply with the letter dated 23.11.2005 issued by the Hon'ble Akal Takht Sahib. He also submitted that in view of the above, since the Deputy Commissioner, Patiala had already instructed the concerned officers to ensure that no such violation takes place and especially between 10:00 P.M. to 06:00 A.M., nothing survives in the present petition and the same is liable to be dismissed.

6. I have heard the learned counsel for the parties.

7. The present is a second round of litigation filed by the petitioner. Apart from the same, even a contempt petition bearing COCP-314-2022 filed by the petitioner has been disposed of as having been rendered infructuous by a Coordinate Bench of this Court on 26.07.2023. Earlier when the petitioner had filed a petition seeking same relief, which is being sought in the present petition, the same was disposed of on 17.12.2018 vide Annexure P-1 with a direction to the Deputy Commissioner concerned to convene a meeting with all the religious institutions within his jurisdiction situated in village Bhadson, Tehsil Nabha, District Patiala to ensure that the volume of speaker of these institutions is cut down to minimum to ensure that sleep and life of people living in the area is not disturbed.

8. The grievance of the petitioner in the present case is again the same that the loud speakers which are fitted in the Gurudwara Singh Sabha, Bhadson are being used in violation of the norms laid down by the Punjab Pollution Control Board and the pitch of the loud speakers is higher than the permissible limits. Whereas, learned State counsel has submitted that on the basis of affidavits filed by the police as well as by the SDM, Nabha, repeated inquiries were being conducted by different officers of the Executive and also of the Punjab Pollution Control Board wherein it has been found that no such loud voice is there and the statements of the people who are residing near Gurudwara Sahib have also been recorded and they have also stated that no such high voice is being heard by them. The State in its affidavits have also taken a specific stand by stating that the aforesaid directions issued vide Annexure P-1 have already been complied with because the Deputy Commissioner, Patiala thereupon after the passing of the aforesaid order had convened a meeting and with regard to the same even the proceedings of the meeting has been attached as Annexure R-2, wherein instructions have already been issued in this regard.

9. After hearing learned counsel for the parties, this Court is of the view that the present case is based upon disputed question of fact which cannot be gone into by this Court while exercising powers under Section 482 Cr.P.C. The grievance of the petitioner is that from the speakers situated in the Gurudwara Singh Sabha, Bhadson, loud voice is being generated which disturbs her, whereas the stand of the State based upon its affidavits is that repeated inquiries are being conducted from the people who are residents of the said place and also the fact as to whether any voice is being generated exceeding the

permissible limits or not and it has been repeatedly found that no such violation is being made and no high pitch volume is being generated from Gurudwara Sahib. Therefore, this Court does not deem it fit and proper to invoke its extraordinary powers under Section 482 Cr.P.C. and does not find any merit in the present petition.

10. Consequently, the present petition is hereby dismissed.

11. However, in case the petitioner in future has any other difficulty with regard to the voice from the speakers exceeding the permissible limits prescribed by the Punjab Pollution Control Board, then she always has a remedy to either file any complaint before the Punjab Pollution Control Board or the concerned Executive Authorities or to invoke appropriate provisions of Cr.P.C. including Section 133 Cr.P.C., strictly in accordance with law.

14.09.2023
Chetan Thakur

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No