

2024:PHHC:057037

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

251

CRM-M-52119-2018 (O&M)
DECIDED ON:25.04.2024

HANS RAJ

.....PETITIONER

VERSUS

STATE OF PUNJAB AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Rajan Bansal, Advocate for
Mr. P.K.S. Phoolka, Advocate
for the petitioner.

Mr. J.S. Rattu, DAG, Punjab

Mr. Siddharth Gupta, Advocate
for respondent No.2.

Ms. Gurneet Sagoo, Advocate
for respondent No.3.

SANDEEP MOUDGIL, J.(ORAL)

1. The jurisdiction of this Court under Section 482 Cr.P.C. has been invoked seeking quashing of the impugned judgment dated 08.03.2017 (Annexure P-1) passed by learned Additional Sessions Judge, Ludhiana, whereby revision petition filed by the petitioner has been dismissed.
2. Learned counsel for the petitioner contends that though the petitioner is in possession of ample evidence to establish that the Atta Chakki being run, adjacent to his house, is a source of nuisance in the locality and is also causing damage to his property but he could not produce the same before Sub Divisional Magistrate, which resulted into dismissal of his application under Section 133Cr.P.C.
3. Learned State counsel as well as counsel for the private

respondents contend that the Atta Chakki in question was installed by the respondent for the last more than 25 years ago and the petitioner has constructed his house 8-10 years back. It has been further contended that an electric motor has also been installed by the respondent. Further more, the petitioner himself has admitted in his cross-examination that the Atta Chakki is running before he purchased the plot.

- 4. Heard, learned counsel for the parties.
- 5. From perusal of the report of Field Kanungo and Patwari, it is crystallized that Atta Chakki is being run since long by electric motor and the wall of the petitioner’s house is at a distance. Therefore, no nuisance is being caused by the said Atta Chakki. Moreover, the petitioner has himself admitted in his cross-examination that the private respondents are running the Atta Chakki for the last more than 10 years and he has constructed his house in the year 2003, which is sufficient for this Court to infer that before constructing his house the Atta Chakki was being run by the respondents and he was well aware of this fact. The documents produced by the petitioner were signed by number of persons, who are allegedly the residents of area where the house of both the parties is situated but none of them has been examined by the petitioner to prove that the residents of the locality are suffering because of Atta Chakki.
- 6. It would be relevant to reproduce Section 133 Cr.P.C., which reads thus:-

“ xxx xxx xxx xxx

The nuisance or unlawful obstruction contemplated in Section 133 is a public nuisance or unlawful obstruction and that therefore no order for removal of private nuisance can be passed under section 133 of the Code of Criminal Procedure, 1973.”

7. In view of the above, this Court is of the view that the application submitted by the petitioner does not come under the ambit of 133 Cr.P.C, as neither the residents are facing any trouble with the running of Atta Chakki nor there is any public nuisance and the petitioner has submitted the application for his own personal cause.
8. Accordingly, the instant petition stands dismissed, being devoid of any merit.
9. However, it will be open for the petitioner to avail the other remedy, available to him, as per law.

(SANDEEP MOUDGIL)
JUDGE

25.04.2024
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1. Whether speaking/reasoned?	Yes/No
2. Whether reportable?	Yes/No