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

Date of decision: 04.11.2024

1. **CWP-6280-2024(O&M)**

Abhilaksh Sachdev and another **...Petitioners**

Vs.

State of Haryana and others **...Respondents**

2. **CWP-7741-2024(O&M)**

Karam Singh and others **...Petitioners**

Vs.

State of Punjab and others **...Respondents**

CORAM: HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Abhinav Sood, Advocate
Mr. Nitesh Jhajhria, Advocate
Ms. Mehndi Singhal, Advocate
Mr. Rohit Mittal, Advocate
for petitioner in CWP-6280-2024.

Mr. Nitin Chaudhary Advocate
Mr. Saurav Bhatia, Advocate
Mr. Kuljinder Singh Billing, Advocate
for petitioner No.1 in CWP-7741-2024.

Mr. Sylvester Stephen, Advocate
for petitioner No. 2 to 6 in CWP-7741-2024.

Mr. Deepak Balyan, Addl. A.G., Haryana.

Mr. Salil Sabhlok, Sr. DAG, Punjab.

Ms. Harpriya Khaneka, Advocate
for respondent No.3 in CWP-7741-2024.



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Mr. M.S. Virk, Advocate
for the respondent No.7 in CWP-7741-2024.

Mr. Mikhail Kad, Advocate for
Mr. Ashdeep singh, Advocate
for respondent No.8 in CWP-7741-2024.

Mr. J.S. Wasu, Advocate-intervener
in CWP-7741-2024.

Mr. Himanshu Arora, Advocate
for respondent No.9 in CWP-7741-2024.

SHEEL NAGU, CHIEF JUSTICE, (ORAL)

1. Short reply filed on behalf of Punjab Pollution Control Board in CWP-7741-2024 is taken on record.

2. These petitions are disposed of by common order.

3. This petition has been filed essentially complaining of noise pollution caused by respondent No.7, which is situated in Ambala Cantt.

2. During pendency of this petition, the Haryana State Pollution Control Board (hereinafter referred to as 'the Board') as well as State of Haryana have filed their respective affidavits *inter alia* stating that respondent No.7 had been summoned by the authorities and on appearing, the respondent No.7 assured of maintaining the noise levels, which are prescribed by guidelines laid down in order passed by a Co-ordinate Bench of this Court on 22.07.2019 in various CWPs including CWP-6213-2016 (Annexure P.12). For ready reference and convenience, relevant guidelines contained in paragraph 28 of the aforesaid order are reproduced below:



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“i) *The States of Punjab, Haryana and Union Territory, Chandigarh are directed to ensure that no loudspeaker or public address system shall be used by any person including religious bodies in Temples, Mosques and Gurudwaras without written permission of the authority even during day time, that too, by getting an undertaking that the noise level shall not exceed more than 10dB(A) peripheral noise level.*

ii) *The States of Punjab, Haryana and Union Territory, Chandigarh are directed to ensure that the loudspeaker, public address system, musical instrument and sound amplifier are not played during night time except in auditoria, conference rooms, community halls, banquet halls as per norms laid down under the Noise Pollution (Regulation and Control) Rules, 2000.*

iii) *The States of Punjab, Haryana and Union Territory, Chandigarh are directed to ensure that loud speakers or public address systems are not used between 10.00 p.m. to 6.00 a.m., except between 10.00 p.m. to 12.00 midnight during any cultural or religious festive occasion of a limited duration not exceeding 15 days in all during a calendar year, that too, the noise level shall not exceed 10dB(A) above the ambient noise standards for the area. The peripheral noise level of a privately owned sound system or a sound producing instrument shall not, at the boundary of the private place, exceed by more than 5dB (A). The authority concerned shall keep on visiting and monitoring at the public places, private places, auditoriums, conference rooms, community halls, banquet halls, temples, mosques and Gurudwaras to ensure due compliance of the Rules.*

iv) *We direct all the Senior Superintendents of Police/ Superintendents of Police in the States of Punjab, Haryana and Union Territory, Chandigarh to ensure that no horn shall be blown in silence zone or during the night time between 10.00 p.m. to 06.00 a.m. in residential areas except during public emergency. No sound emitting construction equipments shall be used or operated during the night time between 10.00 p.m. to 06.00 a.m. in residential areas or silence zone. m. The pressure horns are banned throughout the States of Punjab, Haryana and Union Territory, Chandigarh. The violators of the Rules be penalized under the Rule 6 of the Noise Pollution (Regulation and Control) Rules, 2000.*

v) *All the Senior Superintendents of Police/ Superintendents of Police*



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and Deputy Superintendent of Police in the States of Punjab, Haryana and Union Territory, Chandigarh are directed to ensure that motorcycles throughout the States of Punjab, Haryana and Union Territory, Chandigarh are duly fitted with silencers to avoid noise pollution and menace.

vi) No person, throughout the States of Punjab, Hayana and Union Territory, Chandigarh, shall carry any fire-arm to a fair, religious procession/ marriage procession or other public assemblage or within the campus or precincts of any educational institution.

vii) The Licensing Authorities are also directed to ensure that no licence is issued to any person, who has not completed the age of 21 years.

viii) No licence shall be issued to a person who has been sentenced on conviction of any offence involving violence or moral turpitude to imprisonment for [any term] at any time during a period of five years.

ix) No licence shall be issued to a person who has been ordered to execute under Chapter VIII of the [code of Criminal Procedure, 1973 (2 of 1974)], a bond for keeping the peace or for good behaviour, during the term of the bond.

x) The Director General of Police in the States of Punjab, Haryana and Union Territory, Chandigarh, are directed to ensure that no songs are played glorifying the liquor, wine, drugs and violence in any song even in live shows.

xi) The States of Punjab, Haryana and Union Territory, Chandigarh are also directed that no child below the age of 12 years is permitted to enter cinema halls/ multiplexes, where "A" certificate films are screened. xii) The District Administration is directed to ensure that nude posters, semi-nude posters, obscene posters should not be fixed/ displayed in any district near the educational institutions in the States of Punjab, Haryana and Union Territory, Chandigarh.

xiii) The Deputy Commissioners in the States of Punjab, Haryana and Union Territory, Chandigarh, are directed to ensure that no loudspeakers are permitted 15 days before the annual examinations and during the course of examinations.

xiv) The recommendations made by the Committee constituted by this Court are ordered to be implemented in letter and spirit for proper enforcement of law.



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xv) The District Magistrates/ Senior Superintendents of Police/ Superintendents of Police of each district shall be personally responsible to ensure due compliance of the directions issued hereinabove.”

3. Learned counsel for the petitioner does not dispute that the grievance qua petitioner has since been satisfied but while pointing out to the order passed by this Court on 18.03.2024, it is submitted that the scope of this petition was widened by treating it as a Public Interest Litigation and therefore, the grievance of noise pollution ought to be assessed accordingly.

4. We have gone through the affidavits filed by the Board as well as States which *inter alia* reveal that 49 complaints were received from 2021 till May 2024, out of which 25 complaints have been disposed of and 24 are pending consideration.

5. The reply filed by the Board is though silent about the status of the complaints that have been disposed of but it appears that the grievance of noise pollution is a continuous one and will have to be monitored from micro to macro level by the concerned authorities including the executive authorities under the State of Haryana including the District Magistrate and Superintendent of Police, who has been held to be personally liable in case of any violation of the said guidelines laid down by the Coordinate Bench of this Court (Annexure P-12).

6. In this view of the matter, it would be appropriate that since noise pollution is part of the air pollution and is punishable under the penal provisions of The Air (Prevention and Control of Pollution) Act of 1981, the petitioner is granted liberty to approach the concerned jurisdictional Police Station and lodge an FIR in the event of any violation of the guidelines laid down by this Court



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(Annexure P.12). More so, the offence of noise pollution is a cognizable one under The Air (Prevention and Control of Pollution) Act of 1981, therefore, if any such cognizable offence is informed to the police authorities, they are duty bound to register an FIR under Section 154 Cr.P.C (Section 173 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023)

7. If the police fails to perform its statutory under Section 154 of the Code of Criminal Procedure, 1973 then the aggrieved person is free to approach the Magistrate under Section 156(3) Cr.P.C (Section 175 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS)).

8. However, the aforesaid direction does not absolve the District Magistrate and the Superintendent of Police since they have been held to be personally liable in terms of paragraph (xv) of the directions passed by a Coordinate Bench of this Court on 22.07.2019 (Annexure P.12).

9. The District Magistrate and Superintendent of Police are directed to be vigilant and on any violation pointed out by any citizen of any District of the States of Punjab, Haryana and U.T. Chandigarh, appropriate steps shall be taken in accordance with law, as expeditiously as possible.

10. The time frame laid down by the Apex Court in '**Lalita Kumari vs. Government of UP**', 2013 (4) RCR (Criminal) 979, shall be adhered to while registering any offence. The relevant extract of the law laid down by Apex Court in Lalita Kumari's case (supra) is reproduced below for ready reference and convenience and to be followed by all police officers, who are in-charge of the Police Station in the State of Punjab:-



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“Conclusion/Directions:

111) In view of the aforesaid discussion, we hold:

i) Registration of FIR is mandatory under Section 154 of the Code, if the information discloses commission of a cognizable offence and no preliminary inquiry is permissible in such a situation.

ii) If the information received does not disclose a cognizable offence but indicates the necessity for an inquiry, a preliminary inquiry may be conducted only to ascertain whether cognizable offence is disclosed or not.

iii) If the inquiry discloses the commission of a cognizable offence, the FIR must be registered. In cases where preliminary inquiry ends in closing the complaint, a copy of the entry of such closure must be supplied to the first informant forthwith and not later than one week. It must disclose reasons in brief for closing the complaint and not proceeding further.

iv) The police officer cannot avoid his duty of registering offence if cognizable offence is disclosed. Action must be taken against erring officers who do not register the FIR if information received by him discloses a cognizable offence.

v) The scope of preliminary inquiry is not to verify the veracity or otherwise of the information received but only to ascertain whether the information reveals any cognizable offence.

vi) As to what type and in which cases preliminary inquiry is to be conducted will depend on the facts and circumstances of each case.

The category of cases in which preliminary inquiry may be made are as under:

- a) Matrimonial disputes/ family disputes*
- b) Commercial offences*
- c) Medical negligence cases*
- d) Corruption cases*



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e) Cases where there is abnormal delay/laches in initiating criminal prosecution, for example, over 3 months delay in reporting the matter without satisfactorily explaining the reasons for delay. The aforesaid are only illustrations and not exhaustive of all conditions which may warrant preliminary inquiry.

vii) While ensuring and protecting the rights of the accused and the complainant, a preliminary inquiry should be made time bound and in any case it should not exceed 7 days. The fact of such delay and the causes of it must be reflected in the General Diary entry.

viii) Since the General Diary/Station Diary/Daily Diary is the record of all information received in a police station, we direct that all information relating to cognizable offences, whether resulting in registration of FIR or leading to an inquiry, must be mandatorily and meticulously reflected in the said Diary and the decision to conduct a preliminary inquiry must also be reflected, as mentioned above.”

10. With the aforesaid observations, both writ petitions stand disposed of.

**(SHEEL NAGU)
CHIEF JUSTICE**

**(ANIL KSHETARPAL)
JUDGE**

04.11.2024

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