

Court No. - 29

Case :- APPLICATION U/S 482 No. - 2666 of 2024

Applicant :- M/S Mahalaxmi Buildtek Ltd. Thru. Its Authorized Repreast. Mr. Anand Kumar Singh And 3 Others

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home Lko. And Another

Counsel for Applicant :- Purnendu Chakravarty, Anuj Tandon, Pranjal Jain

Counsel for Opposite Party :- G.A.

Hon'ble Ajay Bhanot, J.

Heard Shri Purnendu Chakravarty, learned counsel assisted by Shri Anuj Tandon, learned counsel for the applicants, Shri A. K. Verma, learned counsel for the opposite party no. 2 and Shri Vinay Kumar Shahi, learned AGA for the State.

The instant Application U/S 482 is directed against the Complaint Case No. 7211 of 2020 under Section 37 of Air (Prevention and Control of Pollution) Act, 1981 (hereinafter referred to as 'the Act') registered by the opposite party no. 2 against the applicants.

The gravamen of the allegations in the complaint is that the applicants had established the industrial plant without obtaining previous consent from the competent Pollution Control Board which is in violation of Section 21 of the Act. The complaint has been made on the footing of an inspection report dated 14.12.2020. The inspection report

records that at the time of physical inspection of Khasra No. 191M Village Morta, District Ghaziabad, RMC Plant was found in operation.

It is contended on behalf of the applicants that a permission was obtained to establish and operate the said plant. However, permission to which attention is drawn is of dated 02.06.2021 which is admittedly subsequent to the date of the inspection.

Prima facie an offence of violation of the provisions of the Act is disclosed from the compliant.

Learned counsel for the applicants contends that the applicants have remedies under the Act to assail the inspection report before the appellate authority. Further the appeal can be carried to the national tribunal. The criminal proceedings are not maintainable since the applicants are yet to avail their right of appeal.

I am afraid the submission is misconceived. The existence of remedies against the civil liabilities imposed upon the polluters by the Pollution Board will not preclude them from instituting criminal proceedings under the Act. Civil proceedings and the criminal proceedings under the Act can proceed parallel and simultaneously. Both proceedings have different purposes. Standards of evidence also vary in civil and criminal proceedings.

In this wake, the impugned summoning order passed by

the trial court cannot be faulted. No ground for interference is made out.

The Application U/S 482 is dismissed.

Order Date :- 21.3.2024

Dhananjai