



Serial No.19
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

Crl. Petn. No. 27 of 2024

Date of Hearing: 13.02.2025

Date of Decision: 13.02.2025

Shri. Balwan Bhama ,
S/o Late ML Bhama,
R/o House No. 35 – A,
Ground Floor,
Near Income Tax Colony,
Bangaon, Beltola, Guwahati,
Assam – 781028.

Vs. **1.**State of Meghalaya represented
by the Secretary, Home Department,
Government of Meghalaya.
2.The Deputy Commissioner,
South West Garo Hills, Baghmara.
3.The Additional Deputy Commissioner
South West Garo Hills, Baghmara.
4.The Superintendent of Police,
South West Garo Hills, Baghmara.

.....PETITIONER

.....RESPONDENTS.

Coram:

Hon'ble Mr. Justice B. Bhattacharjee, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. Philemon Nongbri, Adv.

For the Respondent(s) : Mr. K. Khan, AAG with
Mr. S. Sengupta, Addl. Sr. GA.

(JUDGMENT AND ORDER)

The petitioner, who is one of the Directors of M/s Vaishno Devi Traders Pvt. Ltd., has filed this instant criminal petition under Section 482 Cr.PC seeking quashing of the FIR dated 03-07-2023 registered as Gasuapara PS Case No. 04 (7) 2023 under Section 21 (1) Mines and Minerals (Development and Regulation) Act, 1957.



1. The FIR dated 03-07-2023 was lodged by the Additional Deputy Commissioner, South Garo Hills before the Superintendent of Police, South Garo Hills informing that a Joint Magisterial Team was deputed to conduct raids and seize the illegally dumped/stored coal in and around Gasuapara land and Custom Station based on the police report vide letter No.CON/NGT.II-2023/387 dated 27-06-2023. Shri Jericko N Sangma, MCS, Executive Magistrate conducted the raids and seizures on 27-06-2023 and 30-06-2023 and found around 5711 MT coal dumped illegally and was seized by the Magistrate from one firm named Vaishno Devi Traders Pvt. Ltd. belonging to the petitioner herein. The said seized coal was assessed on the spot by the Mines Royalty Inspector, Gasuapara. On the basis of the FIR, Gasuapara PS Case No. 04 (7) 2023 under Section 21 (1) MMDR Act was registered against the petitioner. Assailing the FIR dated 07-03-2023 and the Gasuapara PS. Case No. 04 (7) 2023, the petitioner has filed this instant criminal petition before this Court.

2. Mr. Philemon Nongbri, learned Counsel appearing for the petitioner submitted that though the petitioner has been shown as the proprietor, the seized coal has been legally purchased by M/s. Vaishno Devi Traders Pvt. Ltd., which is a company. It is submitted that the seized coal was procured by the company after being the successful bidder in the e-Auction conducted by MSTC limited, a Government of India enterprise on 14-03-2023 and since the exportation of the coal to Bangladesh could not be completed, it had to be stored in the company's registered GST Stock Yard at Gasuapara. Referring to the various annexures appended to the criminal petition, the learned Counsel submitted that the seized coal cannot be termed as illegal as there exists valid documents for the same. Drawing the attention of this Court to the FIR dated 07-03-2023, the learned Counsel submitted that the text of the FIR speaks only about illegal and unauthorized dumping of coal and makes no mention about "illegal coal". He contended that unauthorized dumping of coal cannot be



termed as storage. The learned Counsel, therefore, submits that even if the entire allegation made in the FIR is accepted as true, no offence can be made out under Section 21 (1) of MMDR Act. He submits that the continuation of the Gasuapara PS Case No. 04 (7) 2023 and the seizure of the company's coal have affected the business of the petitioner and his reputation in the society and prays that the FIR and the investigation of the case be quashed.

3. Mr. K. Khan, learned AAG for the State-respondents, per contra, drawing the attention of this Court to the order dated 02-05-2023 passed in PIL No. 8/2022 submitted that no coal should be allowed to be exported from any place in the State of Meghalaya to Bangladesh without both the State authorities and the relevant LCS authorities being satisfied as to the origin of the mineral. The learned AAG submits that since the FIR was lodged pursuant to the said order of the High Court, there is a strong assumption that the seized coal was not procured legally and the matter needs to be investigated thoroughly. He further submits that the documents which are relied upon by the learned Counsel for the petitioner, cannot be looked into at this stage by this Court to determine as to whether the seized coal has been dumped legally or illegally. He submits that there is no merit in the present petition and prays for dismissal of the same.

4. For proper appreciation of the rival contentions, it would be appropriate to take into consideration the allegations made in the FIR dated 13-07-2023 which reads as follows: -

GOVERNMENT OF MEGHALAYA
ADDITIONAL DEPUTY COMMISSIONER, SOUTH GARO HILLS
BAGHMARA

No. SGH/DC/NGT/3/2023/9

Dated: Baghmara the 3rd July, 2023

From The Additional Deputy Commissioner
South Garo Hills, Baghmara

To The Superintendent of Police
South Garo Hills.



Subject: First Information Report (FIR) against Shri. Balwan Bhama, Proprietor of M/S Jai Maa Coal Traders and M/S Vaishno Devi Traders Pvt. Ltd
Sir,

With reference to the subject cited above, it is to inform you that the Joint Magisterial Team was deputed to conduct raids and seize the illegally dumped/stored coal in an around Gasuapara Land and Custom Station based on the Police report submitted vide letter No.CON/NGT.II-2023/387 Dated Baghmara the 27th June, 2023. Shri. Jericko N Sangma, MCS the Executive Magistrate conducted the raids and also the seizures on 27/06/2023 and on 30/06/2023. Around 5711 MT of coal dumped illegally was seized by the Magistrate from one firm named Vaishno Devi Traders Pvt. Ltd. which belong to Shri. Balwan Bhama. The said seized coal was assessed on the spot by the Mines Royalty Inspector Gasuapara.

In this connection kindly register a case under appropriate section of the law against the firm owner Shri. Balwan Bhama for unauthorized dumping of coal.

Memo. No. SGH/DC/NGT/3/2023/9-A

Additional Deputy Commissioner
South Garo Hills, Baghmara
Dated: Baghmara the 3rd July 2023

5. Perusal of the FIR dated 13-07-2023 makes it amply clear that though there is no specific mention of the term “illegal coal”, there is a clear mention of illegally dumped/stored coal. The provision of Section 21 (1) MMDR Act lays down that whoever contravenes the provisions of sub-Section (1) or sub-Section (1A) of Section 4 shall be punishable with imprisonment for a term which may extend to five years and with fine which may extend to five lakhs rupees per hector of the area. Sub-Section (1) of Section 4 MMDR Act prohibits reconnaissance, prospecting or mining operation in any area without valid permit or license granted in accordance with law. Sub-Section (1A) of Section 4 MMDR Act provides that no person shall transport or store or cause to be transported or stored any mineral otherwise than in accordance with the provision of the Act and the Rules made thereunder. Thus, it is clear that storage of mineral in contravention of provision of law is an offence under the MMDR Act.

6. The FIR dated 13-07-2023 makes a clear allegation of the illegally dumped/stored coal in and around Gasuapara Land and Custom Station. It is also stated therein that 5711MT of coal dumped illegally was seized by the



Magistrate from the firm belonging to the petitioner. The submission advanced by the learned Counsel appearing for the petitioner or the materials on record do not indicate that the seized coals were not dumped for the purpose of storage. Moreover, there is a mention of on-the-spot assessment of the seized coal by the Mines Royalty Inspector in the FIR. Hence, at this stage, it cannot be said that the allegation made in the FIR does not make out any offence.

7. The contention of the learned Counsel for the petitioner that the seized coal was acquired legally by paying all the royalties and other taxes and the supporting documents thereof annexed with the instant criminal petition cannot be gone into by this Court at this juncture in exercise of its limited jurisdiction under Section 482 Cr.PC in order to record a finding as to the legality or illegality of procurement of the seized coal.

8. In view of the above discussion, there is no merit in this criminal petition and the same stands dismissed.

Judge

Meghalaya
13.02.2025
"Biswarup PS"