

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M No. 27572 of 2014 (O&M)

Date of decision : January 29, 2015

Pawan Kumar,

..... Petitioner

v.

State of Punjab,

..... Respondent

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Naveen Batra, Advocate
for the petitioner.

Ms. Amarjit Kaur Khurana, Addl. A.G Punjab

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment ?**
- 2. To be referred to the Reporters or not ?**
- 3. Whether the judgment should be reported in the Digest ?**

Ajay Tewari, J (Oral)

Prayer made in this petition filed under Section 482 of the Cr.P.C is for quashing of FIR No. 38, dated 4.4.2012, registered under Sections 379, 411 of the IPC and Section 21(1) of the Mining and Minerals Act, 1957, at Police Station Kiratpur Sahib, District Rupnagar.

The allegations in the FIR were that during inspection of the crusher of the petitioner by the Mining Officer, it was found that the petitioner had collected the material illegally and the same was stolen property. After the registration of the FIR, the petitioner, as per the instructions of the Government dated 27.6.2012, deposited a sum of ₹

1,62,570/- with the Mining Department which issued no objection to cancel the FIR and permitted to compound the offence. Thereafter, the SHO presented the cancellation report dated 26.07.2012, which was duly approved by the Superintendent of Police (Detective). However, despite that challan has been presented.

Counsel for the petitioner has argued that the petitioner had all necessary permissions to run the crusher and the permissions which had been granted are valid uptill 31.3.2015. As per him, even requisite penalties have been paid and the offence has been compounded. He has further argued that the Court could take cognizance of the offence only on the basis of a complaint in writing made by an authorized person. Since there is no complaint, the instant FIR is liable to be quashed. For this proposition, he has relied upon Harmela Ram v. State of Haryana, 2013(2) RCR (Criminal) 141, wherein it was held as follows :-

“ 8. Since in the present case, the complaint should have been filed under the Act in writing by the authorized person, the FIR in question is liable to be quashed as the Court cannot take cognizance of the offence unless there is a complaint in writing by the authorized person with regard to commission of offence punishable under the Act. The authorized person instead of filing a complaint in writing sought registration of FIR against the petitioners and their co-accused, which could not have been done in view of Section 22 of the Act.”

Counsel for the respondent is not in a position to cite any contrary judgment.

In these circumstances, this petition is allowed and FIR No. 38, dated 4.4.2012, registered under Sections 379, 411 of the IPC and Section 21(1) of the Mining and Minerals Act, 1957, at Police Station Kiratpur Sahib, District Rupnagar, as well as subsequent proceedings arising

therefrom is quashed.

January 29, 2015
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(AJAY TEWARI)
JUDGE