

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.

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CRR No.3850 of 2013.

Date of Decision: May 18, 2015.

Labh Singh and others

...Petitioners.

VERSUS

State of Punjab.

...Respondent.

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CORAM : HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Manish Kumar Singla, Advocate for the petitioners.

Mr. Gurinderjit Singh, Deputy Advocate General, Punjab.

HARI PAL VERMA, J. (Oral)

Challenge in this petition is to the Order dated 15.10.2013 passed by learned Judicial Magistrate Ist Class, Samana, whereby the trial Court has charge-sheeted the petitioners in case F.I.R. No.79 dated 07.08.2013 under Section 21 of Mining Act (in short, "the Act"), registered at Police Station Ghagga and the Court has fixed the case for prosecution evidence on 14.01.2014.

Learned counsel for the petitioners relied upon the judgment passed by this Court dated 29.04.2013 in ***CRM-M No.526 of 2012 titled as 'Harmela Ram vs. State of Haryana'*** and ***CRM-M No.10677 of 2012 titled as 'Karampal and another vs. State of Haryana'*** to contend that as per section 21 of the Mining Act, if there is any contravention of sub-section (1) or sub-section (1-a) of Section 4 of the Act, the only remedy available to

prosecution is to file a complaint. Section 22 of the Act reads as under:-

“Cognizance of offence

No Court shall take cognizance of any offence punishable under this Act or any rules made thereunder except upon complaint in writing made by a person authorised in this behalf by the Central Government or the State Government.”

Learned counsel for the petitioners submitted that as per Section 22 of the Act, no Court shall take cognizance of the Act upon that complaint made by the person in this behalf.

Learned State counsel does not dispute to the aforesaid analogy. He further submitted that the case be remanded back to the trial Court to decide afresh in accordance with law.

Since in the present case, the complaint should have been filed under the Act by an authorized person, the F.I.R. in question is liable to be quashed, as the Court cannot take the cognizance. The case should have been filed by the authorized person with regard to commission of offence under the Act. The authorized person instead of filing a complaint in written should have registered an F.I.R. against the petitioners and their co-accused, which could not have been done as Section 22 of the Act bars it.

In view of the above, the present petition is allowed. F.I.R. No.79 dated 07.08.2013 under Section 21 of Mining Act, registered at Police Station Ghagga is hereby quashed. However, the authorized person/prosecution would be at liberty to initiate proceedings against the petitioners under the available provisions of the Mining Act. The case is

thus remanded back to the trial Court with liberty to the prosecution/
complainant to file a complaint against the petitioners if permissible under
the law.

(HARI PAL VERMA)
JUDGE

May 18, 2015
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