

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.27263 of 2013

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M/S S.S. Traders through its Proprietor Shiv Shankar Sah,
S/o Late Jaga Sah, Resident of Village – Amra-Talab, P.S. -
Sasaram (M), District – Rohtas.

.... Petitioner

Versus

1. The State of Bihar.
2. The Mining Inspector, Rohtas, Sasaram.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar, Adv.
For the State : Mr. Rajendra Pd. Nat (A.P.P.)
For the O.P. No.2 : Mr. Devendra Kr. Sinha, Sr. Adv.
Mr. Rajendra Prasad, Adv.

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH**

ORAL ORDER

6 18-03-2016 Heard the parties.

Learned counsel, appearing on behalf of the
petitioner, has attempted to persuade me that there
being bar, under Rule 9 of the Bihar Minerals (Prevention
of Illegal Mining, Transportation and Storage) Rules,
2003 (*hereinafter referred to as the "Rules of
2003"*), against taking of cognizance of any offence,



punishable under the said Rules, except upon complaint in writing made by a person authorised in this behalf by the State Government or a person described in Rule 5 and Rule 7 of the Rules, registration of the First Information Report, being Dehri P.S. Case No.336 of 2013, for such offence, as mentioned under Rule 8 (e) of the Rules of 2003, is not permissible. According to him, registration of the First Information Report will serve no purpose since, on the basis of police report; the Court cannot take cognizance, in terms of Rule 9 of the Rules of 2003. It has secondly been submitted on behalf of the petitioner that the First Information Report has been instituted for breach of Rule 40 of the Bihar Minor Mineral Concession Rules, 1972 (***hereinafter referred to as the "Rules of 1972"***).

The petitioner has, accordingly, sought for quashing of the said First Information Report, invoking Section 482 of the Code of Criminal Procedure, 1973.

Learned counsel for the petitioner has further contended that, according to Rule 41 of the Rules of 1972, the Court can take cognizance of an offence, under the Rules, only upon a complaint made in writing by the Competent Officer or Deputy Director of Mines or Additional Director of Mines or Director of Mines or any

other Officer, empowered by the Government.

Mr. Devendra Kumar Sinha, learned senior counsel, appearing on behalf of the Mines Department, Government of Bihar, while opposing this application for quashing of the First Information Report, under Section 482 of the Code of Criminal Procedure, has submitted that the offences, under sub-Rule (4), (5a) and (5c) of Rule 6 and Rule 7 of the Rules of 2003, are cognizable. Referring to the seizure report, Mr. Sinha, learned senior counsel, has submitted that a case for breach of Rule 7 is made out, on the basis of the contents of the First Information Report, read with the seizure list. He submits, therefore, that the registration of the First Information Report cannot be called into question, the offence being cognizable one.

I am convinced with the submission, made on behalf of the opposite party No.2-Department of Mines, Government of Bihar, that a cognizable offence is made out, on the basis of what has been alleged in the First Information Report. The cognizable offence is one where the police have power to arrest an accused without warrant. Power of the police to investigate into a case, making out a cognizable offence, cannot be normally interfered with, invoking extraordinary inherent

jurisdiction under Section 482 of the Code of Criminal Procedure.

Learned counsel for the petitioner has vehemently contended that for taking of cognizance, a report by a competent authority, submitted to the Court, is essential and, on the basis of police report, the Court cannot take cognizance of the offences referred to in the First Information Report. It is not his case that so far any report has been submitted to the Court by the authority, not competent to submit the same, under the Rules of 2003 or Rules of 1972, referred to above.

In the facts and circumstances of the case, I do not find any reason to quash the First Information Report of Dehri Town P.S. Case No.336 of 2013, exercising power, under Section 482 of the Code of Criminal Procedure. It will, however, be open to the petitioner to question the order taking cognizance, if, according to him, such cognizance is taken by the Court, on the basis of the report submitted by an officer or authority, not authorized, under the Rules, to submit such report.

This application stands disposed of, but with the observations as above.

(Chakradhari Sharan Singh, J.)

Praveen-II/-

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