

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr. M.P. No. 820 of 2015**

- Vijay Kumar Agrawal S/o Late Jagat Ram Agrawal Aged About 48 Years (Wrongly Mentioned As 40 Years In The Challan Filed By The Police) Occupation - Business, Proprietor - Nipun Stones Crusher Udhog R/o. Ambikapur Road Pathalgaon, Post, P.S. & Tahsil - Pathalgaon, Revenue & Civil District - Jashpur Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Secretary, Department Of Home (Police), Mahanadi Bhawan, Naya Raipur, Revenue & Civil District - Raipur Chhattisgarh
2. Director General Of Police, Raipur Revenue & Civil District - Raipur Chhattisgarh
3. Mining Officer Mines Office In Collectorate Raigarh, Revenue & Civil District – Raigarh, Chhattisgarh
4. Superintendent Of Police Raigarh, Revenue & Civil District - Raigarh Chhattisgarh
5. Collector Raigarh Revenue & Civil District - Raigarh Chhattisgarh
6. State Of Chhattisgarh Through Station House Officer, Police Station - Dharamjaigarh, Revenue & Civil District – Raigarh, Chhattisgarh

---- Respondents

For Applicant	:	Mr. Surfaraj Khan, Advocate
For State	:	Mr. Satish Gupta, Government Advocate

SB: Hon'ble Shri Justice P.Sam Koshy**Order On Board****20/09/2016**

1. The present Cr.M.P. has been preferred under Section 482 CrPC

seeking for quashment of the entire criminal proceedings initiated against the Petitioner vide the F.I.R No. 134/2015 and Final Report No. 158/2015 registered at the police station, Dharamjairgarh, Raigarh.

2. The basic challenge in the present Petition is that the police authorities do not have authority to initiate prosecution against the Petitioner for the offence under the provisions of Mines and Minerals (Development and Regulation) Act 1957 (in short 'the MMDR Act').
3. Learned State Counsel at this juncture submits that the issue involved in the present case stands squarely covered in the decision of the Hon'ble Supreme Court in case of **State of NCT of Delhi v. Sanjay** decided on 4th September, 2014 wherein the Supreme Court has in very categorical term held that the prohibition contained under Section 22 of the MMDR Act against the prosecution of a person except on a complaint made by the officer is attracted only when such person is sought to be prosecuted for contravention of Section 4 of the MMDR Act and not for any act or omission which constitute an offence under I.P.C.
4. This Court has initially vide its order dated 30.11.2015 had granted interim protection to the Petitioner against the entire proceedings initiated by the police authorities. Now in the light of the order passed by the Supreme Court referred in the preceding paragraph this Court is of the opinion that the ground raised by the Petitioner in

the present Petition stands decided and nothing further remains to be adjudicated upon in the present Petition and therefore accordingly the present Cr.M.P. deserves to be dismissed.

5. However, so far as the objection of the Petitioner in respect of the offence with regard to offence under Section 4(1)21 of the MMDR Act is concerned the Petitioner shall have the liberty to raise his objection in this regard before the Court below at the time of framing of charge.
6. With the aforementioned liberty the present Cr.M.P. stands dismissed.

Sd/-

**(P. Sam Koshy)
JUDGE**