

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P. No. 781 of 2015**

- Deepak Agrawal S/o Mahabir Prasad Agrawal Aged About 25 Years Occupation Business R/o Ambikapur Road Pathalgaon, Post, Police Station & Tah. Pathalgaon, Rev. And Civil Distt. Jashpur Chhattisgarh.

---- Petitioner**Versus**

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

---- Respondents

For Applicant	:	Mr. Surfaraj Khan, Advocate
For State	:	Mr. Satish Gupta, Government Advocate
For Intervenor	:	Mr. S. Agrawal, 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. 122/2015 and Final Report No. 141/2015 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