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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-28714-2012(O&M)
Date of Decision :04.09.2017

Bachittar Singh

.....Petitioner

Versus

State of Punjab and Anr.

.....Respondents

CORAM : HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. H.S.Deol, Advocate
for the petitioner.

Ms. Bhavna Gupta, DAG, Punjab.

RAMENDRA JAIN, J. (ORAL)

Prayer in the instant petition under Section 482 Cr.P.C. has been made for quashing FIR No.45 dated 19.04.2012 under Sections 379, 411 IPC and Section 21(1) of the Mining and Minerals Act, 1957 (hereinafter referred to as 'the Act')registered at Police Station Kiratpur Sahib, District Roopnagar.

Allegation against the petitioner is that on checking he was found doing illegal mining in violation of Section 4 of the Act.

Learned counsel for the petitioner contends that the FIR has illegally been registered against the petitioner, because a criminal action can be initiated against a person punishable under the Act or any rules made thereunder only upon a complaint in writing made by a person authorized in this behalf by the Central or the State Government.

On the other hand, learned State counsel has not been able to refute the above submissions, but contends that extracting or doing illegal mining constitutes two offences i.e. one under the Act and the other under the Indian Penal Code. Even if the petitioner cannot be tried and chargesheeted under Section 21 of the Act, in view of the provision of Section 22 of the Act, in that eventuality, the petition can be tried under

Sections 379 and 411 IPC.

For ready reference, Section 22 of the 1957 Act is reproduced herein:-

“22. Cognizance of offences. - 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.”

From the above provisions, it is evident that the Court can take cognizance of any offence punishable under the Act or any rules made thereunder only upon a complaint in writing made by a person authorised in this behalf by the respective Governments.

In view of above specific provision, the impugned FIR is liable to be quashed under Section 21 (1) of the Act and accordingly quashed.

However, since offences under Section 379 and 411 IPC are offences under Indian Penal Code other than the Act, therefore, there cannot be any bar to proceed further against the petitioner under Sections 379 and 411 IPC. Reference can be had to *State of NCT of Delhi and Others versus Sanjay & Others 2014 (4) RCR (Criminal)*.

Accordingly proceedings against the petitioner in the impugned FIR under Section 379 and 411 IPC shall continue in accordance with law.

Petition is disposed of accordingly.

(RAMENDRA JAIN)
JUDGE

September 04, 2017

Sunil Devi

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No