

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.11527 of 2021**

Arising Out of PS. Case No.-203 Year-2017 Thana- NAUTAN District- Siwan

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1. ANIRUDDH SINGH S/o Hira Singh Village-Hasua, P.S.-Nautan, District-Siwan, Bihar-841436.
 2. SAROJ SINGH W/o Arvind Singh Village-Hasua, P.S.-Nautan, District-Siwan, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar
2. KRISHNA PRASAD GUPTA S/o Late Radhe Prasad Gupta (Circle Inspector, Nautan) Village-Kalyanpur, P.S.-Bhore, District-Gopalganj.
3. The Department of Mines and Mineral, Govt. of Bihar, Patna through its Principal Secretary

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Venkatesh Kirti
For the Opposite Party/s : Ms. Pushpa Sinha

**CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR
PANDEY**

ORAL ORDER

3 19-05-2022 The present application has been filed for quashing the order 16.10.2019, passed by the Judicial Magistrate, 1st Class, Siwan in Nautan P.S.Case No. 203 of 2018, whereby he has taken cognizance against all the accused persons under Sections 420, 379 and 411/34 of the Indian Penal Code and issued summon against them.

As per prosecution case, the informant got an information that some persons were illegally mining the white sand. The informant along with police party went to the place of occurrence. Five tractors were seized loaded with illegally



mined sand.

The learned counsel for the petitioners has submitted that no cognizance can be taken under the Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation & Storage) Rules, 2019, hereinafter to be referred to as 'the Rules', except upon a written complaint made in writing by the Competent Officer or Dy. Director of Mines or Additional Director of Mines or Director of Mines or any other officer empowered by the Government.

From perusal of the impugned order, it appears that the learned court below has not taken cognizance under the Rules, as mentioned in Rule 61, rather the cognizance has been taken under Sections 420, 379 and 411/34 of the Indian Penal Code. As such, that cognizance cannot be said to be barred under Rule 61 of the Rules.

The learned counsel for the petitioners has submitted further for the same offence, a separate case has been filed by the Canal Department, a copy whereof has been annexed at page 34 of the brief.

Merely because a separate case has been lodged, the cognizance order cannot be rendered as illegal or suffering from jurisdictional.



I do not find any jurisdictional error in the impugned order which makes the order liable to be quashed.

With these observations, the application is dismissed.

(Nawneet Kumar Pandey, J)

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