

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

245-CRM-M-45875-2021

Date of Decision: 31.10.2022

Nirmal Singh @ Nimma

... Petitioner

VS.

State of Punjab

... Respondent

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. Ankush Rampal, Advocate for
Mr. Rahul Rampal, Advocate for the petitioner

Mr. Aman Dhir, DAG Punjab

Sandeep Moudgil, J. (Oral)

The petitioner seeks quashing of the FIR No.250 dated 02.11.2019 (Annexure P1) under Section 21 of the Mines and Minerals (Development & Regulation) Act, 1957 and Section 379 IPC, registered at Police Station Haibowal, District Ludhiana, along with all consequential proceedings arising therefrom.

The prosecution case is that a secret information was received by ASI Sukhwinder Singh on 02.11.2019 that Gurbachan Singh son of Darshan Singh, R/o H.No.2122, Panch Colony, Back Side Petrol Pump, Chuaharpur Road, Ludhiana, who is having Sonalika Tractor bearing No.PB-91-F-0698, is going from Village Baloki via Chuaharpur towards Sangam Palace Chowk, Ludhiana while loading sand unauthorizedly in his trolley from his nearby fields. Nakabandi was done near Gurudwara Sahib, Village Chuaharpur, and Gurbachan Singh was apprehended alongwith Tractor Trolley filled with sand and as such, the present FIR was got registered.

Learned counsel for the petitioner contended that the implication of the petitioner in the present FIR is a result of two separate incidents which

had taken place against which FIR No.252 dated 04.11.2019 was got registered at the instance of German Singh against Sona, Gola, Rana, Babbu & Rippal and another FIR No.255 dated 06.11.2019 under Sections 451/506/472 IPC was got registered, at the instance of Amarjeet Singh against the petitioner and some other unknown persons at Police Station Haibowal.

Counsel for the petitioner averred that tractor No.PB-91-F-0698 was the same tractor trolley which was part of the subject matter in FIR No.252 dated 04.11.2019. Further, nothing has come against the petitioner in the investigation. It is further contended that no offence under Section 379 IPC is made out against the petitioner, because it is alleged in the FIR that sand/mud was extracted from the farm-land of the petitioner to fill another plot of the petitioner but there is neither any description of farm-land nor of the plot allegedly owned by the petitioner to connect the petitioner with the commission of offence. It is also contended that even otherwise, the police authorities are not empowered to register FIR under the Mines & Minerals Act, as no sanction etc. have been taken nor proper procedure was followed. The allegations in the FIR are based only on a secret information at the behest of one Amarjeet Singh, who is complainant in FIR No.255 dated 06.11.2019.

Learned State counsel, on the other hand, submits that case has been registered against the petitioner since sand/mud was got illegally extracted from his farm/land without any permission or licence from the Mining Department. It is averred in the reply filed on behalf of the respondent that the present FIR is not a result of two separate incidents and

that the contents of the FIR were found to be *prima facie* true and as such, final report under Section 173 CrPC has already been filed before the trial court. It is further averred that the offences under Section 379 IPC and Section 21 of the Mines and Minerals Act, were made out and the question of prior sanction is debatable during trial.

Having heard learned counsel for the parties and going through the record, this Court is of the considered opinion that no case of quashing of the FIR is made out at this stage, since it is averred by learned State counsel that the contents of the FIR were found to be true and, as a result of which, final report has already been submitted.

In this view of the matter, when the matter is before the trial court for adjudication on the basis of evidence to be led by both sides, the petitioner will get opportunity to cross-examine the prosecution witnesses and lead defence evidence, as such, no case for quashing of the FIR (Annexure P1), is made out.

Dismissed.

31.10.2022
V.Vishal

- 1. Whether speaking/reasoned?
- 2. Whether reportable?

(Sandeep Moudgil)
Judge

Yes/No
Yes/No