

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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CRM-M-45933-2016

Date of decision: 10.03.2023

MANDEEP SINGH**...Petitioner****VERSUS****STATE OF PUNJAB AND ANOTHER****...Respondents****CORAM : HON'BLE MR. JUSTICE DEEPAK MANCHANDA**

Present: Mr. N.S. Sodhi, Advocate
for the petitioner.

Mr. Gurdarshan Singh Sidhu, AAG, Punjab.

DEEPAK MANCHANDA, J.(ORAL)

The present petition has been filed under Section 482 Cr.P.C. for quashing of FIR No.56 dated 17.07.2016 under Section 379 of IPC and Section 21-A of The Mines and Minerals (Development and Regulation) Act, 1957 (for short, the Act), registered at Police Station Sadar Patti, District Tarn Taran and all other proceedings arising therefrom.

Brief facts of the case are that upon receiving a secrete information, complainant/respondent No.2-ASI Sawinder Singh had conducted raid; apprehended the petitioner and co-accused from the spot for illegal mining/digging out sand from the river and recovered the trucks wherein 100 square feet each sand was lying. Thereafter, the respondent No.2/complainant got registered the present FIR against the petitioner and other co-accused.

Learned counsel for the petitioner contends that the

petitioner was an employee of the contractor who authorised to dig out the sand from the river but at the time of alleged occurrence, petitioner was not present on the spot rather the petitioner is permanently residing in Moga and has no concern. No role is attributed to the petitioner as neither he was digging out the sand nor he is driver or owner of any truck parked to load the sand. Learned counsel for the petitioner submits that as per Section 22 of the Act, FIR could not have been registered and Court could take cognizance of the offence only on the basis of the complaint in writing made by the authorised person in this behalf by the Central Government or the State Government. He submits that the case is at preliminary stage however, nothing incriminating has been recovered from the petitioner and on inquiry, it was found that those drivers were of authorised contractor who were having licence to dig out sand from the River. Therefore, the present FIR is liable to be quashed.

Learned State counsel opposed the prayer made by the learned counsel for the petitioner and submits that the petitioner and co-accused were apprehended from the spot along with truck loaded with sand digged out from the river.

I have heard the learned counsel for the parties and gone through the material available on record.

Before proceeding further reference may be made to Section 22 of The Mines and Minerals (Development and Regulation) Act, 1957 and the same is reproduced hereunder:-

“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.”

Thus as per Section 22 of The Mines and Minerals (Development and Regulation) Act, no Court shall take cognizance of any offence punishable under the Act except upon complaint in writing made by a person authorised in this behalf.

Since in the present case, the complaint should have been filed under the Act in writing by the authorised person, the FIR in question is liable to be quashed as the Court cannot take cognizance of the offence unless there is a complaint in writing by the authorised person with regard to commission of offence punishable under the Act. The authorised person instead of filing a complaint in writing sought registration of FIR against the petitioner and his co-accused, which could not have been done in view of the Section 22 of The Mines and Minerals (Development and Regulation) Act, 1957.

The co-ordinate Bench of this Court in CRM-M-526-2012 and CRM-M-29855-2014 have held that as per Section 22 of the Act, no Court shall take cognizance of any offence punishable under the Act except upon complaint in writing made by a person authorised in this behalf.

Further, there is nothing on record to show whether the ASI Sawinder Singh-complainant was the authorised person to get register the FIR and as per contents of the FIR, the complainant and his team were patrolling in routine on private vehicle, when reached at the place of occurrence. Moreover, even in reply of the State nothing as such had been stated in this regard.

Accordingly, the present petition is allowed. FIR No.56

dated 17.07.2016 under Section 379 of IPC and Section 21-A of The Mines and Minerals (Development and Regulation) Act, registered at Police Station Sadar Patti, District Tarn Taran and all other subsequent proceedings arising therefrom are quashed.

March 10, 2023
Manisha/Nisha-II

(DEEPAK MANCHANDA)
JUDGE

<i>Whether reasoned/speaking?</i>	<i>Yes/No</i>
<i>Whether reportable?</i>	<i>Yes/No</i>