

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

236

CRM-M-36041-2020

Decided on : May 09, 2023

ARVIND

..... Petitioner

Versus

STATE OF HARYANA AND OTHERS

..... Respondents

CORAM : HON'BLE MR. JUSTICE NAMIT KUMAR

Present: None for the petitioner.

Mr. Zorawar Singh Chauhan, DAG, Haryana.

NAMIT KUMAR, J. (Oral)

1. No one has put in appearance on behalf of the petitioner on 12.02.2021, 15.09.2022 and 25.01.2023. Even today also there is no representaiton on behalf of the petitioner.

2. The instant petition has been filed under Section 482 Code of Criminal Procedure, 1973 for issuance of directions to the respondents to release the vehicle i.e. Dumper No.HR 58-B-9156 on *Superdari*.

3. On issuance of notice of motion, reply by way of affidavit dated 16.01.2023 of Rajat Gulia, HPS, Deputy Superintendent of Police, Radaur, District Yamuna Nagar, has been filed on behalf of the respondent no.3. The relevant portion of the status report reads as under:-

“ 2. That in this regard, it is submitted that a letter No.3501 dt. 18.11.2022 was received in the police station Radaur, from the office of Mines and Geology Department, Yamuna Nagar on the subject for taking legal action u/s 379 IPC against owner/driver of Dumper bearing registration No. HR58-B- 9156 for committing the

offence of theft of illegal mining and violation of the order dt. 23-04-2019 and 19-02-2020 of Hon'ble National Green Tribunal, New Delhi. In the said letter it was intimated that in compliance of order dt. 23-12-2019 of Director General Mines and Geology Department, Haryana, Chandigarh to stop the illegal mining, SET has been constituted and during checking by the said team in the area of Radaur, the above said vehicle has been caught being indulged in the illegal transpiration of mining core sand without any valid bill, under sub-rule 102/104 of State Mining Rules and section 21 (4) of Mines and Minerals (D&R) Act, 1957. It was also intimated that earlier also the said vehicle was seized on 03-09-2012 in the area of police station Buria. So, as per order dt. 23-04-2019 and 19-02-2020 of the Hon'ble National Green Tribunal, New Delhi and as per sub-rule 104 of State Mining Rules 2012, environment compensation amount, penalty, royalty and value of mining material is to be deposited through e-challan in the government treasury. But the owner/ driver of the aforesaid vehicle has not deposited penalty amount.

3. *That on the basis of aforesaid letter, present FIR No. 221, dt. 19-12-2020, u/s 379 IPC was registered at police station Radaur.*

4. *That after registration of FIR, investigation was carried out and during course of investigation, section u/s 21 (4) of Mines and Minerals (Regulation of Development) was added. On 15-12-2020, aforesaid dumper loaded with coarse sand was taken into police possession, statement of witnesses were recorded. Record pertaining to aforesaid seized vehicle was taken into police possession from the office of Mines and Geology Department, Yamuna Nagar. On 21-01-2021, place of occurrence was inspected and site plan was prepared. On 03-04-2021, the petitioner was joined in the investigation in view of instructions issued in judgment passed in case 'Arnesh Kumar Vs. State of Bihar'. The petitioner was interrogated. The petitioner disclosed that he has Dumper No. HR58B-9156 and he himself driving the said dumper and used to supply gravel, sand in Karnal, Kurukshetra, Yamuna Nagar. On 23-12-2019 he was coming from*

Naraingarh in his aforesaid Dumper No. HR58B-7995 after loading core sand towards Kurukshetra. On the way he also loaded coarse sand and he was caught by the team of Mining Department with aforesaid dumper. The petitioner also identified the place from where Team of Mines and Geology Department had caught his Dumper No. HR58-B-9156 loaded with core sand. The petitioner did not produce original registration certificate and driving license, so section under Motor Vehicle Act was added. As such during course of investigation allegations have been found cogent. After completing the investigation, challan was submitted u/s 21 (4) of Mines and Minerals (Regulation of Development). Act, 1957, 379 IPC and Motor Vehicle Act before the Id. Court on 02-09-2021. The charges have been framed against petitioner on 06-10-2022. Now the case is fixed for 18- 01-2023.

5. That in view of submissions made above, the present petition has got no merits, because if vehicle in question i.e. Dumper No. HR58B- 9156 be released then petitioner could again use it in transportation of illegal mining material. It is also submitted that the petitioner has not produced original Registration Certificate of Dumper No. HR58-B-9156 neither he has produced original driving license. As such petitioner was illegally and in unauthorized manner plying the aforesaid vehicle. So, the present petition has got no force or merits and the same deserves to be dismissed. ”

4. Since, the Vehicle in question has already been recovered in a FIR registered under Section 379 of IPC, therefore, no relief can be granted in the present petition and the petitioner would be at liberty to seek his remedy in accordance with law.

5. Disposed of accordingly.

May 09, 2023
mkkoundal

(NAMIT KUMAR)
JUDGE

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