

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

CRM-M No.35101 of 2023

Date of decision: 4th September, 2023

Jasvir Singh & others

... Petitioners

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Vikas Bali, Advocate for the petitioners.

Mr. Pankaj Khullar, Asst. Advocate General, Punjab
for the respondent/State.

MANJARI NEHRU KAUL, J.

1. The petitioners are seeking quashing of FIR No.124 dated 31.07.2018 (Annexure P-1) under Section 21 of the Mines & Minerals (Development & Regulation) Act, 1957 (hereinafter referred to as, 'the Act') registered at Police Station Machhiwara, Police District Khanna, District Ludhiana.

2. The FIR in question (Annexure P-1) was registered pursuant to a secret information received that the petitioners were engaging in illegal mining without obtaining the requisite permission/approval of the mining department. During investigation, petitioner Jasvir Singh produced one letter claiming it to be a letter of permission for mining from the concerned department. However, since the police was unable to procure any record qua the permission which had been granted to petitioner Jasvir Singh, the letter was believed to be fake. Subsequently, on the basis of the material collected during investigation, challan was presented against the petitioners under Section 21 of the Act.

3. Learned counsel appearing on behalf of the petitioners has vehemently argued that the FIR in question, at the very first instance, is not maintainable in view of the bar contained under Section 22 of the Act. While drawing the attention of this Court to the provisions of Section 22 of the Act, it has been submitted that it has been categorically provided therein that cognizance of offence under the Act, can be taken by a Magistrate, only on a complaint made by an authorized person in the said regard. It has been submitted that it is a matter of record that the challan has been presented only for commission of an offence under Section 21 of the Act and no other offence, much less for any offence under the Indian Penal Code. Learned counsel has asserted that the petitioners had in fact duly obtained the requisite permission for mining from the department concerned. In support, he has drawn the attention of this Court to Annexure P-3, wherein it stands reflected that the mining officer had accepted the application of the petitioners. It has, therefore, been vehemently urged that the FIR in question was, on the face of it, a blatant abuse of the Court and thus, was liable to be quashed.

4. Per contra, learned State counsel while opposing the prayer of the counsel opposite has submitted that a secret information was received by the police that the petitioners had been indulging in illegal mining. Learned State counsel however, has been unable to controvert that the petitioners had not been challaned for any offence under the IPC and had been challaned only for commission of offence under Section 21 of the Act.

5. I have heard learned counsel for the parties and perused the relevant material on record.

6. Before proceeding further, it would be apposite to reproduce Section 22 of the Act.

“22. 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.”

7. A perusal of the above reproduced provisions leaves no manner of doubt that cognizance of an offence under the Act can be taken by a Court of law, **but only**, on a complaint made by an authorized person. Still further, it is also not disputed, rather it is a matter of record that no offence under the IPC has been added against the petitioners, either in the FIR in question or even while presenting the challan.

8. In the circumstances, in view of the bar created under Section 22 of the Act, coupled with the settled ratio of law of the Hon’ble Supreme Court in its various pronouncements, the instant petition deserves to be allowed as it is a matter of record that an FIR was lodged by ASI Ajmer Singh and no complaint, as mandated by Section 22 of the Act, was made by an authorized person. Hence, the continuation of criminal proceedings in FIR No.124 dated 31.07.2018 (Annexure P-1) would be nothing but an abuse of the process of law, which thus, is quashed qua the petitioners.

(MANJARI NEHRU KAUL)
JUDGE

September 4, 2023
rps

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