



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL WRIT PETITION (WP) NO. 92 OF 2024

Manoj Ramaniklal Suchak

.Vs.

The State of Maharashtra, through PS Mukutban, Tq. Zari Jamni, Distt. Yavatmal
and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions Court's or Judge's orders.
and Registrar's Orders.

Mr Chaitanya Kulkarni, Advocate for the petitioner
Ms Nikhil Valesha, Adv. h/f. Mr Anand Parchure, Advocate for respondent Nos.2 & 3
Ms Prachi Joshi, APP for respondent No.1/State

CORAM : ANIL S. KILOR, J.

DATED : MARCH 12, 2025.

Heard.

2. The refusal to take cognizance of a complaint filed by the petitioner under Section 156(3) of the Code of Criminal Procedure, 1973 (for short 'the Cr.P.C.') by the learned Judicial Magistrate First Class, Zari Jamim and thereby, rejecting the complaint vide order dated 15.05.2019 was the subject matter of challenge before the learned Sessions Judge in Criminal Revision Application No. 21 of 2019 filed under Section 397 of the Cr.P.C. The said revision application came to be dismissed vide judgment dated 10.06.2022. The same is under challenge in this petition.

3. The learned revisional Court while dismissing the revision has recorded the observations in para Nos. 11 to 14.

The same are reproduced below:

11. I have given my anxious consideration to the submissions made by respective learned counsels. I have also thoroughly gone through the impugned order and the documents and the relevant provisions of the Mines and Minerals Act, so also Amended Act 2015. I have also thoroughly gone through the authorities relied by applicant before learned Magistrate, and after going through the same I found that, applicant has failed to demonstrate, as to how he has locus to file the present application for registration of crime. Moreover, though as per Rule 23(3) Scheduled 10 of the Mines and Minerals Act 1957 and Amended Act 2015, in case of individual, the mining lease or contract must be personally signed by the applicant and as the same is not signed by non-applicant No. 1, but by his power of attorney, still it is difficult to consider that, prima-facie any offence has been committed by non-applicants.

12. After going through the R & P it needs to be noted here that, applicant himself has filed on record the letter issued by District Mining Officer, Yavatmal, dated 15/03/2018 by which non-applicant No. 1 was informed that, his personal presence is necessary for issuance of contract. He pointed out the error committed by him, while executing the lease-deed. Therefore, considering the said fact, no offence is prima facie made out against non-applicants.

13. Apart from this, as per Section 22 of the Mines and Minerals Act, no court shall take cognizance of any offence punishable under the said Act, or any Rules made there under, except upon a complaint in writing, made by a person, authorized in that behalf, by the Central

Government or the State Government. Therefore, in view of said specific provision, certainly applicant has no locus to file the complaint. Therefore, it is prima-facie clear that, the complaint does not disclose any cognizable offence.

14. Moreover, the complaint also failed to disclose, as to how there is lawful gain to non-applicants and wrongful loss to applicant. The complaint is silent about the same. Therefore, on this count also prima-facie no offence of Cheating or misappropriation is made out by applicant. Therefore, considering all these facts, the impugned order passed by learned Judicial Magistrate, is found to be legal and proper. I have also thoroughly gone through the impugned order and I found that, learned Magistrate, by recording proper reasoning, based upon the law, has rejected the prayer for registration of crime. As no cognizable offence is prima-facie made out, therefore learned Magistrate has rightly rejected the application. Therefore, the impugned order does not suffer from any infirmity. On the contrary, the same is based upon the facts and law. In view of authorities relied by learned counsel for applicant also, the impugned order is sustainable.”

4. The above referred observations makes it clear that the complaint was rejected on the ground that the petitioner failed to make out any cognizable offence. Furthermore, the learned revisional Court has recorded the findings on the locus of the petitioner to file such complaint. Thus, the complaint was rejected on merits as well as on the point of

locus. It is pointed out that in similar complaint the offence was registered and the police filed 'C' summary.

5. As nothing is pointed out to say that the observations of both the Courts suffered from perversity, I do not find any merit in the present petition.

6. Furthermore, after the impugned order was passed the present petition came to be filed after one and half years and there is no explanation given for such delay and latches. Thus, the present petition also suffers from delay and latches. Accordingly, the writ petition is **dismissed**.

(ANIL S. KILOR, J.)

Namrata