BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **20.11.2025**

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THE HONOURABLE **MR.JUSTICE SHAMIM AHMED**

CRL.R.C.(MD)No.1053 of 2025

The State of Tamil Nadu,
Represented by its,
The Inspector of Police,
Keelavalavu Police Station,
Madurai,
Cr.No.222 of 2013 ...Revision Petitioner/Complainant

vs.

Selvi,
W/o.Palanisamy,
379, Sarveshvar Kovil Street,
Anna Nagar,
Madurai. ... Respondent/Accused No.4

PRAYER: Criminal Revision Petition is filed under Section 438 r/w 442 of BNSS, 2023, to call for the records pertaining to the common order dated 27.03.2023 made in Crl.M.P.No.2347 of 2022 in Spl.S.C.No.46 of 2021 on the file of the learned Special Court to Deal with the Cases of Offences in Contravention of the Provisions of the Mines & Minerals (D&R) Act, Madurai and set aside the same against the discharged of the Respondent/Accused-A4, by allowing this Criminal Revision Petition.

For Revision Petitioner : Mr.A.S.Abul Kalam Azad
Government Side

For Respondent : Mr.Ananda Padmanabhan
Senior Counsel
Assisted by,
Mr.R.Ramachandran

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ORDER

Heard Mr.Abul Kalam Azad, learned Government Advocate (Crl.side) appearing for the Revision Petitioner and Mr.N.Anandha Padmanabhan, learned Senior Counsel assisted by Mr.R.Ramachandran, learned Counsel for the Respondent.

2. This Criminal Revision Petition has been filed by the Revision Petitioner/State to set aside the order dated 27.03.2023 made in Crl.M.P.No.2347 of 2022 in Spl.S.C.No.46 of 2021 on the file of the learned Special Court to Deal with the Cases of Offences in Contravention of the Provisions of the Mines & Minerals (D&R) Act, Madurai against the discharged of the Respondent/Accused-A4/Selvi.

3. The facts of the case in a nutshell, led to filing of this Criminal Revision Petition and necessary for disposal of the same, are as follows:-

a) PRP Exports and PRP Granites, firm were granted a license to extract granite stones at Pulani in Survey No. 297/5. However, it was later discovered that they had unlawfully extracted granite from areas where they did not have government permission. The firm used their vehicles and heavy machinery to illegally detonate explosives and extract granite. In November 2012, a special team from the Department of Geology and Mining, Chennai, inspected the quarry. During the inspection, the then Village Administrative Officer (VAO) and village assistants accompanied the team and identified the area using village records, as boundary stones were not present. The special team prepared an evaluation report revealing that K. Murugesan and representatives of PRP Exports and Granites Firm had conducted illegal quarrying activities without government permission. The report also stated that granite had been extracted unlawfully, causing a loss to the government. This report was submitted to the District Collector. Based on the findings, the District Collector of Madurai directed the Tahsildar of

Melur Taluk to file a complaint with the police. In compliance with this order, the VAO, along with the village assistant, verified the quarry site and subsequently lodged the present complaint.

b) Based on the complaint, a case was registered in Crime No. 222/2013 under Sections 147, 379, 406, 420, 434, 447, and 304(ii) of the IPC read with Section 511 of the IPC, Section 3(i) of the TNPPDL Act, Sections 4(1) and 4(1)(A) read with Sections 21 and 23 of the MMDR Act, and Section 4 of the Explosive Substances Act against the accused persons A-1 to A-23. After completion of a detailed and elaborate investigation, a final report was filed before the Judicial Magistrate, Melur, and the same was taken on file as P.R.C. No. 13/2017 dated 16.02.2017. Subsequently, the case was committed to the Learned Special Court to deal with offences in contravention of the provisions of the Mines and Minerals (Development and Regulation) Act, Madurai, and was numbered as Spl.S.C. No. 46 of 2021. Thereafter, Accused Nos. 4, 8, and 9 filed a discharge petition before the said Special Court. By common order dated 27.03.2023 in Crl.M.P. No. 2347 of 2022 in Spl.S.C. No. 46 of 2021, the Court discharged only the

Respondent/Accused-A4/Selvi.

c) The Trial Court, after considering the material before him, was pleased to discharge the Respondent/Accused-A4/Selvi. from the offences framed against her in Crl.M.P. No. 2347 of 2022 in Spl.S.C. No. 46 of 2021, vide common order dated 27.03.2023. Hence, the present Revision Petition has been filed by the State against the common order passed in Crl.M.P. No. 2347 of 2022 in Spl.S.C. No. 46 of 2021, dated 27.03.2023, passed by the Learned Special Court to deal with cases of offences in contravention of the provisions of the Mines and Minerals (Development and Regulation) Act, Madurai, whereby the respondent/Accused No. 4, Selvi, was discharged. The Revision Petitioner/State seeks to set aside the said common order of the Trial Court discharging the Respondent/Accused-A4/Selvi.

4. When the matter was taken up on 25.09.2025, on the request of both Counsel, the Court granted time to the learned Counsel for the Revision Petitioner as well as the learned Counsel for the Respondent to file a counter affidavit and a rejoinder affidavit in the present Criminal

Revision Petition. Thereafter, the matter was adjourned on various dates to enable the filing of the counter and rejoinder affidavits. Today, when the matter was taken up, both the counter affidavit and the rejoinder affidavit have been filed, and the same are on record. The pleadings between the parties are thus complete and both the Counsel ready to argue the case finally today.

5. Mr.A.S.Abul Kalam Azad, learned Government Advocate for the Revision Petitioner/State, submits that the prosecution examined six eyewitnesses and produced the final report along with the damage certificate issued by the competent authority. The testimonies of the prosecution witnesses are consistent, and their statements clearly establish the involvement of the Accused beyond all reasonable doubt. However, the learned Trial Court disregarded these testimonies altogether.

6. The learned Government Advocate further submits that the Trial Court, in its common order dated 27.03.2023 partly and wholly

discharging the Accused, erred in stating that there was no specific overt act attributed to the Respondent. It is contended that all the Accused are partners of the accused firm and were present at the scene of occurrence. They had clearly instructed the other accused persons to carry out the illegal mining activities, encroach upon Government property, and damage the Kanmais, thereby obstructing agricultural operations.

7. The learned Government Advocate further submits that the learned Trial Court, by a common judgment and order dated 27.03.2023 in Crl.M.P.No.2347 of 2022 in Spl.S.C.No.46 of 2021 on the file of the learned Special Court to deal with cases of offences under the Mines and Minerals (Development and Regulation) Act, Madurai, has, without proper application of mind, discharged the Respondent/Accused-A4/Selvi, from the aforesaid criminal case. The Trial Court failed to consider the entire evidence on record, including the statements of witnesses and other relevant materials available against the Respondent/Accused-A4/Selvi, despite clear indications of her involvement in the alleged crime.

8. He further contended that the complaint was rightly filed against the Respondent, as six witnesses, who were eyewitnesses to the incident, spoke about her direct involvement in the offence alleged by the prosecution. In particular, the eyewitnesses, namely L.W.8 Muthalagu (S/o Nallu), L.W.10 Perungkattan (S/o Attachamy), and L.W.12 Ravi (S/o Nalluchamy), stated that in the year 2010, on the day of Ayudha Pooja, at about 10.00 hours, the Respondent/Accused No.4 Selvi, along with the other accused, came to their quarry situated at Keelavalavu, trespassed into Pokkishamalai Parai in S.F.No.297/5(p), and engaged in overt acts constituting the alleged offence.

9. Thus, the learned Government Advocate contended that the Respondent was clearly involved in the alleged crime, and the order passed by the Trial Court is erroneous, illegal, and liable to be set aside. The Trial Court wrongly discharged the Respondent/Accused-A4/Selvi from the alleged offence, even though all the accused are equally liable under the principle of ***vicarious liability***. The learned Government Advocate therefore submits that the Respondent/Accused-A4/Selvi,

along with the other accused persons, are responsible for ***vicarious liability*** in connection with the commission of the alleged offence.

10. Mr.N.Anandha Padmanabhan, learned Senior Counsel for the Respondent submits that the Trial Court has rightly passed the common order dated 27.03.2023 in Crl.M.P. No. 2347 of 2022 in Spl.S.C. No. 46 of 2021 on the file of the learned Special Court dealing with offences under the Mines and Minerals (Development and Regulation) Act, Madurai, discharging the Respondent/Accused-A4/Selvi. The order of discharge passed in favour of the Respondent/Accused-A4/Selvi is reasoned and well-considered, having been made after examining the entire material on record. It is further contended by the learned Senior Counsel that the present Criminal Revision Petition filed by the State against the said order amounts to an abuse of the process of law. He further submits that no overt act connects the Respondent/Accused-A4/Selvi, with the alleged offence.

11. The learned Senior Counsel for the Respondent further submits that the De-facto complainant lodged a complaint against 17 persons, including A1, the partnership firm, and A2 to A5, partners who had leased land at Keelavalavu Village from the Government through a Government Order and as per the version of the complaint. The Sirumanickam Kanmai, adjacent to the leased area, was under the control of PWD/WRD and A2 to A5 allegedly conspired to dump waste stones in the Kanmai's shore, damaging it on various dates. A2 to A5, along with A6 to A17, trespassed into the Kanmai with a crane and two tippers, stacking granite stones under their instruction, obstructing water flow into the Kanmai. The De-facto complainant alleged that the encroachment occurred from 2004, by A2 to A17 continuing to cause damage.

12. The learned Senior Counsel for the Respondent/Accused-A4/Selvi further submits that the allegations against them are entirely false, fabricated, and vague, and are based on erroneous premises. The Respondent/Accused-A4/Selvi categorically deny having committed the

alleged acts. It is further submitted that the complaint was lodged by an unauthorized person on 01.10.2012, after an unexplained delay of over seven years and eight months, thereby casting serious doubt on the credibility of the allegations.

13. It was further argued by the learned Senior Counsel for the Respondent/Accused-A4/Selvi that none of the alleged eye-witnesses were the originators of the complaint filed by the de-facto complainant. There is no material to show that these so-called eye-witnesses ever communicated with the inspecting team, nor is there any evidence indicating that they were identified during the inspection. The statements attributed to these witnesses surfaced years after the alleged incident; as such, they do not inspire confidence and appear to be subsequent, fabricated versions introduced merely to bolster the prosecution's case. Furthermore, it was contended that the prosecution has offered no explanation for the prolonged silence of these witnesses, assuming their presence at the scene. This unexplained delay in bringing forth their statements further undermines the credibility of their evidence.

14. It was further argued by the learned Senior Counsel that the statements of the witnesses appear to be almost identical in language, structure, and narration, differing only with respect to the names and addresses of the witnesses. Such parroted and verbatim statements, which read as mere "copy-and-paste" reproductions, cannot, at the stage of framing of charges, be treated as credible material demonstrating independent recollection or establishing any specific role of the Respondent/Accused-A4/Selvi. This mechanical uniformity materially weakens the evidentiary foundation of the prosecution's case and reinforces the absence of any distinct allegation attributable to the Respondent/Accused-A4/Selvi.

15. The learned Senior Counsel further argued that no action has ever been initiated under the Tamil Nadu Land Encroachment Act, 1905. The FIR does not mention any eyewitnesses, and even though it is stated that eyewitnesses were present, none of them lodged a complaint or served as the source of the FIR. Sivarajini, who was made as an accused in this case, was about 11 years old and present at the scene. She was

seen nodding her head in response to her father's query and therefore cannot be held liable for prosecution. Although a complaint was made regarding the alleged encroachment over water channels and a reservoir, no action has been taken under the Tamil Nadu Land Encroachment Act, 1905 or under Tamil Nadu Act 8 of 2007. In the absence of the names of eyewitnesses in the FIR, it appears that the statements given by witnesses numbered 7 to 14 are identical except for their names and addresses. There are no other allegations against the Respondent/Accused-A4/Selvi, and the mere presence of the accused became the subject of a complaint only in 2012, following an unexplained delay of seven years and eight months.

16. Considering the submissions as advanced by the learned Government Advocate for the Revision Petitioner and learned Senior Counsel for the Respondent/Accused-A4/Selvi and perused the material on record.

17. It is relevant to extract the common order passed by the learned Trial Court dated 27.03.2023 made in Crl.M.P.No.2347 of 2022 in Spl.S.C.No.46 of 2021 on the file of the learned Special Court to Deal with the Cases of Offences in Contravention of the Provisions of the Mines & Minerals (D&R) Act, Madurai, whereby the Respondent/Accused-A4/Selvi was discharged from the alleged offence. The reference is given at paragraph no.40 of the common order dated 27.03.2023, which is reproduced hereunder:

> *"40. In the case in Spl.S.C.46/2021, Six witnesses have been referred to as eye witnesses who would speak about the direct involvement of all the accused in the offences alleged by the prosecution. So far as the statements of the eye witnesses namely (L.W.8) Muthalagu S/o. Nallu, (L.W.10) Perungkattan S/o Attachamy, and (L.W.12) Ravi 5/o Nalluchamy are concerned, it has been stated that in the year of 2010 on the day of Ayuthapooja at about 10.00 hours the petitioners-accused along with the other accused came to their quarry situate at Keelavalavu and trespassed into Pokkishamalai Parai S.F No.297/5(p) So far as the specific overt act on the part of these petitioners accused is concerned, the above said eye witnesses*

would state as follows: Then owner Senthil Kumar and Suresh Kumar told that our father himself told today is Ayudha pooja day, so we complete worship, so let us start the work tomorrow and instructed the workers. Then Palanichamy looked at his daughter Sivaranjani and asked her "shall we worship God"? For that she told ok and further told after worshiping let us start the work tomorrow. Further Palanichamy's wife Selvi and daughter-in-law Chandralekha told to start the work as instructed by Sivaranjani. As already pointed out by this court the overt act doesn't connect these petitioners-accused with offence. The Petitioners-accused Sivaranjani was asked by her father as to when the pooja should be held and the quarry work could be started. It needs to be noted that she would say that work could be started immediately. It also needs to be noted as already mentioned that her father Palanichamy has got legal quarrying mines also. Under the circumstances these petitioners stating that the work could be started today itself without being connected to the illegal quarrying doesn't appear to make out an offence against them. The above said overt act of these petitioners-accused giving on opinion to start the work alone without involving themselves in the illegal quarrying of granite stones in the puramboke *land will not make out on offence As already held by this court only if an allegation when proved will not lead to conviction, then the petitioners accused need not be put to trial. It needs to be further pointed out at this juncture that as per the law laid down by the Hon'ble Apex Court in AIR 1976 SC 366 Union of India Vs Prafulla kumar samal and others it has been held that "**3. By and large however if two views are equally possible and the judge is satisfied that the evidence produced before him while giving rise to some suspicion but not grave suspicion against the accused he will be fully within his right to discharge the accused.**" However so far as statements of the other two eye witnesses namely (L.W.9) Nalluchamy S/o Konam Thevar and (L.W.11) P.Dharmalingam S/o Periyakaruppan are concerned, The petitioner Chandralekha and petitioner Sivaranjani would instigate and direct Ganesan to explode the granite stones using explosives which statements of the witnesses bring petitioner-accused Chandralekha and petitioner-accused Sivaranjani also with in the ambit of committing an offence along with other accused sharing a common intention. The relevant portion of the statement of the above witnesses is as follows: "Subbiah, Thathuvaraj and Paramanandam gave* *explosives to Ganesan, Chandralekha, Sivaranjani, Deivendran and Thavaselvam hurried and instigated Ganesan to blast the site. Ganesan filled the holes and blasted it."*

Therefore this court is of the considered view that when the petition in Cr.M.P. No.2347/2022 in Spl S.C.No. 46/2021 deserves admittance so far as the 1" petitioner selvi is concerned, the petition has to dismissed, so far as 2nd petitioner-accused Chandralekha and 3rd petitioner-accused Sivaranjani are concerned."

18. After perusal of the order passed by the learned Trial Court, this Court finds that the learned Trial Court has given a reasonable findings that no overt act was committed by the Respondent/Accused-A4/Selvi. The above said overt act of the Respondent/Accused-A4/Selvi giving an opinion to start the work alone without involving herself in the illegal quarrying of granite stones in poromboke lands will not make out an offence.

19. Considering all the material on record and the Statements of witnesses, the learned Trial Court rightly by the common order dated 27.03.2023 discharged the Respondent/Accused-A4/Selvi from the alleged offence.

20. The Hon'ble Supreme Court in the case of ***Sajjan Kumar Vs Central Bureau of Investigation*** reported in ***(2010) 9 SCC 368*** was pleased to lay down the following principles governing discharge and framing of charges:

> *"17) Exercise of jurisdiction under Sections 227 & 228 of Cr.P.C.*
>
> *On consideration of the authorities about the scope of Section 227 and 228 of the Code, the following principles emerge:-*
>
> *(i) The Judge while considering the question of framing the charges under Section 227 of the Cr.P.C. has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima*

facie case against the accused has been made out. The test to determine prima facie case would depend upon the facts of each case.

ii) Where the materials placed before the Court disclose grave suspicion against the accused which has not been properly explained, the Court will be fully justified in framing a charge and proceeding with the trial.

iii) The Court cannot act merely as a Post Office or a mouthpiece of the prosecution but has to consider the broad probabilities of the case, the total effect of the evidence and the documents produced before the Court, any basic infirmities etc. However, at this stage, there cannot be a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial.

iv) If on the basis of the material on record, the Court could form an opinion that the accused might have committed offence, it can frame the charge, though for *conviction the conclusion is required to be proved beyond reasonable doubt that the accused has committed the offence.*

v) At the time of framing of the charges, the probative value of the material on record cannot be gone into but before framing a charge the Court must apply its judicial mind on the material placed on record and must be satisfied that the commission of offence by the accused was possible.

vi) At the stage of Sections 227 and 228, the Court is required to evaluate the material and documents on record with a view to find out if the facts emerging therefrom taken at their face value discloses the existence of all the ingredients constituting the alleged offence. For this limited purpose, sift the evidence as it cannot be expected even at that initial stage to accept all that the prosecution states as gospel truth even if it *is opposed to common sense or the broad probabilities of the case.*

vii) If two views are possible and one of them gives rise to suspicion only, as distinguished from grave suspicion, the trial Judge will be empowered to discharge the accused and at this stage, he is not to see whether the trial will end in conviction or acquittal."

21. *The Hon'ble Supreme Court in the case of* ***Union of India vs. Prafulla Kumar Samal reported in AIR 1979 SC 366*** *has held as under:-*

"(1) That the Judge while considering the question of framing the charges under Section 227 of the Code has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused has been made out.

(2) Where the materials placed before the Court disclose grave suspicion against the accused which has not been properly explained the Court will be fully

justified in framing a charge and proceeding with the trial.

(3) The test to determine a prima facie case would naturally depend upon the facts of each case and it is difficult to lay down a rule of universal application. ***By and large however if two views are equally possible and the Judge is satisfied that the evidence produced before him while giving rise to some suspicion but not grave suspicion against the accused, he will be fully within his right to discharge the accused****.*

22. Even considering the principle of vicarious liability as argued by the learned Government Advocate for the Revision Petitioner/State, the further question that arises for consideration before this Court in the present case is whether the Respondent/Accused-A4/Selvi, can be held liable for the offence, even if the allegations in the complaint are taken on their face value to be correct in entirety. Vicarious criminal liability of its Directors, Partners and Shareholders would arise provided any provision exists in that behalf in the statute. The Statute must contain provision fixing such a vicarious liability. Even for the said purpose, it

would be obligatory on the part of the complainant and the investigating agency to make requisite allegations and collect evidence in support thereof which would attract provisions constituting vicarious liability and in the case of the Respondent/Accused-A4/Selvi, no such material was available with the prosecution to establish and attract provisions constituting the vicarious liability.

23. The Hon'ble Supreme Court in the case of ***Sunil Bharti Mittal v. CBI,*** reported in ***(2015) 4 SCC 609*** while dealing with the issue of vicarious liability of the Officers, Directors, Managing Directors, Chairman of the Company was pleased to observe in paras- 42 to 44 and 48 to 50 of the aforesaid judgment, which read as under:-

> *"42. No doubt, a corporate entity is an artificial person which acts through its officers, Directors, Managing Director, Chairman, etc. If such a company commits an offence involving mens rea, it would normally be the intent and action of that individual who would act on behalf of the company. It would be more so, when the criminal act is that of conspiracy. However, at the same time, it is the cardinal principle*

of criminal jurisprudence that there is no vicarious liability unless the statute specifically provides so.

43. Thus, an individual who has perpetrated the commission of an offence on behalf of a company can be made an accused, along with the company, if there is sufficient evidence of his active role coupled with criminal intent. Second situation in which he can be implicated is in those cases where the statutory regime itself attracts the doctrine of vicarious liability, by specifically incorporating such a provision.

44. When the company is the offender, vicarious liability of the Directors cannot be imputed automatically, in the absence of any statutory provision to this effect. One such example is Section 141 of the Negotiable Instruments Act, 1881. In Aneeta Hada [Aneeta Hada v. Godfather Travels & Tours (P) Ltd., (2012) 5 SCC 661 : (2012) 3 SCC (Civ) 350 : (2012) 3 SCC (Cri) 241] , the Court noted that if a group of persons that guide the business of the company have the criminal intent, that would be imputed to the body corporate and it is in this backdrop, Section 141 of the Negotiable Instruments Act has to be understood. Such a position is, therefore, because of statutory intendment making it a *deeming fiction. Here also, the principle of "alter ego", was applied only in one direction, namely, where a group of persons that guide the business had criminal intent, that is to be imputed to the body corporate and not the vice versa. Otherwise, there has to be a specific act attributed to the Director or any other person allegedly in control and management of the company, to the effect that such a person was responsible for the acts committed by or on behalf of the company."*

48. Sine qua non for taking cognizance of the offence is the application of mind by the Magistrate and his satisfaction that the allegations, if proved, would constitute an offence. It is, therefore, imperative that on a complaint or on a police report, the Magistrate is bound to consider the question as to whether the same discloses commission of an offence and is required to form such an opinion in this respect. When he does so and decides to issue process, he shall be said to have taken cognizance. At the stage of taking cognizance, the only consideration before the court remains to consider judiciously whether the material on which the prosecution proposes to prosecute the accused brings out a prima facie case or not.

49. Cognizance of an offence and prosecution of an offender are two different things. Section 190 of the Code empowered taking cognizance of an offence and not to deal with offenders. Therefore, cognizance can be taken even if offender is not known or named when the complaint is filed or FIR registered. Their names may transpire during investigation or afterwards.

50. Person who has not joined as accused in the charge-sheet can be summoned at the stage of taking cognizance under Section 190 of the Code. There is no question of applicability of Section 319 of the Code at this stage (see SWIL Ltd. v. State of Delhi [(2001) 6 SCC 670 : 2001 SCC (Cri) 1205]). It is also trite that even if a person is not named as an accused by the police in the final report submitted, the court would be justified in taking cognizance of the offence and to summon the accused if it feels that the evidence and material collected during investigation justifies prosecution of the accused (see Union of India v. Prakash P. Hinduja [(2003) 6 SCC 195 : 2003 SCC (Cri) 1314]). Thus, the Magistrate is empowered to issue process against some other person, who has not been charge-sheeted, but there has to be sufficient material in the police report showing his involvement.

In that case, the Magistrate is empowered to ignore the conclusion arrived at by the investigating officer and apply his mind independently on the facts emerging from the investigation and take cognizance of the case. At the same time, it is not permissible at this stage to consider any material other than that collected by the investigating officer."

24. The Hon'ble Supreme Court also in the case of ***Shiv Kumar Jatia Vs. State of NCT of Delhi*** reported in ***(2019) 17 SCC 193*** while dealing with vicarious liability of Managing Director of the Company was pleased to observe in paras-21 and 22 as under:-

"21. By applying the ratio laid down by this Court in Sunil Bharti Mittal [Sunil Bharti Mittal v. CBI, (2015) 4 SCC 609 : (2015) 2 SCC (Cri) 687] it is clear that an individual either as a Director or a Managing Director or Chairman of the company can be made an accused, along with the company, only if there is sufficient material to prove his active role coupled with the criminal intent. Further the criminal intent alleged must have direct nexus with the accused.

Further in Maksud Saiyed v. State of Gujarat [Maksud Saiyed v. State of Gujarat, (2008) 5 SCC 668 : (2008) 2 SCC (Cri) 692] this Court has examined the vicarious liability of Directors for the charges levelled against the Company. In the aforesaid judgment this Court has held that, the Penal Code does not contain any provision for attaching vicarious liability on the part of the Managing Director or the Directors of the Company, when the accused is a company. It is held that vicarious liability of the Managing Director and Director would arise provided any provision exists in that behalf in the statute. It is further held that statutes indisputably must provide fixing such vicarious liability. It is also held that, even for the said purpose, it is obligatory on the part of the complainant to make requisite allegations which would attract the provisions constituting vicarious liability.

22. In the judgment of this Court in Sharad Kumar Sanghi v. Sangita Rane [Sharad Kumar Sanghi v. Sangita Rane, (2015) 12 SCC 781 : (2016) 1 SCC (Cri) 159] while examining the allegations made against the Managing Director of a Company, in which, company was not made a party, this Court has held that when the allegations made against the Managing Director are vague in nature, same can be *the ground for quashing the proceedings under Section 482 CrPC. In the case on hand principally the allegations are made against the first accused company which runs Hotel Hyatt Regency. At the same time, the Managing Director of such company who is Accused 2 is a party by making vague allegations that he was attending all the meetings of the company and various decisions were being taken under his signatures. Applying the ratio laid down in the aforesaid cases, it is clear that principally the allegations are made only against the company and other staff members who are incharge of day-to-day affairs of the company. In the absence of specific allegations against the Managing Director of the company and having regard to nature of allegations made which are vague in nature, we are of the view that it is a fit case for quashing the proceedings, so far as the Managing Director is concerned."*

25. The Hon'ble Supreme Court in the case of ***Sham Sunder and Others Vs. State of Haryana [(1989) 4 SCC 630]*** laid emphasis on paragraphs 9 and 10, which are extracted hereunder :

"9. But we are concerned with a criminal liability under penal provision and not a civil liability. The penal provision must be strictly construed in the first place. Secondly, there is no vicarious liability in criminal law unless the statute takes that also within its fold. Section 10 does not provide for such liability. It does not make all the partners liable for the offence whether they do business or not.

10. It is, therefore, necessary to add an emphatic note of caution in this regard. More often it is common that some of the partners of a firm may not even be knowing of what is going on day to day in the firm. There may be partners, better known as sleeping partners who are not required to take part in the business of the firm. There may be ladies and minors who were admitted for the benefit of partnership. They may not know anything about the business of the firm. It would be a travesty of justice to prosecute all partners and ask them to prove under the proviso to sub-section (1) that the offence was committed without their knowledge. It is significant to note that the obligation for the accused to prove under the proviso that the offence took place without his knowledge or that he exercised all due diligence to prevent such offence arises only when the prosecution establishes *that the requisite condition mentioned in sub-section (1) is established. The requisite condition is that the partner was responsible for carrying on the business and was during the relevant time in charge of the business. In the absence of any such proof, no partner could be convicted. We, therefore, reject the contention urged by counsel for the State."*

26. Thus, the initiation of criminal proceedings against the Respondent/Accused-A4/Selvi lacks any substantive basis, as the Respondent/Accused-A4/Selvi has no direct control over the alleged matter. Therefore, the impugned proceedings initiated by the prosecution against the Respondent/Accused-A4/Selvi amount to an abuse of the process of law, and the Trial Court has rightly passed the impugned common order dated 27.03.2023 discharging the Respondent/Accused-A4/Selvi from the present case.

27. This Court is also of the view that the Respondent/Accused-A4/Selvi was summoned by the Trial Court on the basis of the final

report to face the trial, was also on the erroneous consideration as the summoning of the accused in a criminal case is a serious matter.

28. The Hon'ble Supreme Court in the case of ***Pepsi Foods Ltd. v. Judicial Magistrate*** reported in ***(1998) 5 SCC 749*** has been pleased to observe in paragraph No.28, which is reproduced hereinunder:-

> *"28. Summoning of an accused in a criminal case is a serious matter. Criminal law cannot be set into motion as a matter of course. It is not that the complainant has to bring only two witnesses to support his allegations in the complaint to have the criminal law set into motion. The order of the Magistrate summoning the accused must reflect that he has applied his mind to the facts of the case and the law applicable thereto. He has to examine the nature of allegations made in the complaint and the evidence both oral and documentary in support thereof and would that be sufficient for the complainant to succeed in bringing charge home to the accused. It is not that the Magistrate is a silent spectator at the time of recording of preliminary evidence before summoning of the accused. The*

> *Magistrate has to carefully scrutinise the evidence brought on record and may even himself put questions to the complainant and his witnesses to elicit answers to find out the truthfulness of the allegations or otherwise and then examine if any offence is prima facie committed by all or any of the accused."*

29. Further the Hon'ble Supreme Court has also laid down the guidelines where the criminal proceedings could be interfered and quashed in exercise of its power by the High Court in the following cases:- ***(i) R.P. Kapoor Vs. State of Punjab, AIR 1960 S.C. 866, (ii) State of Bihar Vs. P.P. Sharma, 1992 SCC (Crl.)192, (iii) Zandu Pharmaceutical Works Ltd. Vs. Mohd. Saraful Haq and another, (Para-10) 2005 SCC (Cri.) 283 and (iv) Neeharika Infrastructure Pvt. Ltd. Vs. State of Maharashtra, AIR 2021 SC 1918***.

30. Thus, in view of the law laid down by the Hon'ble Supreme Court and in the light of the observations and discussions made above and keeping in view of the fact and circumstances of the case and from perusal of the common order dated 27.03.2023 made in Crl.M.P.No. 2347 of 2022 in Spl.S.C.No.46 of 2021 on the file of the learned Special

Court to Deal with the Cases of Offences in Contravention of the Provisions of the Mines & Minerals (D&R) Act, Madurai, is a reasoned and speaking order and rightly discharged the Respondent/Accused-A4/Selvi from the alleged offence, do not require any interference by this Court. The present Criminal Revision is liable to be dismissed.

31. Accordingly, for the reasons discussions above, the instant Criminal Revision Petition filed by the Revision Petitioner/State stands **dismissed** and the common order passed by the Trial Court, dated 27.03.2023 made in Crl.M.P.No.2347 of 2022 in Spl.S.C.No.46 of 2021 on the file of the learned Special Court to Deal with the Cases of Offences in Contravention of the Provisions of the Mines & Minerals (D&R) Act, Madurai, in respect of discharging the Respondent/Accused-A4/Selvi from the alleged offence, is hereby **confirmed**.

There is no order as to costs. File is consigned to record.

20.11.2025

Index :Yes / No
Internet :Yes / No
NCC :Yes / No
Nsr

To:

1.The Principal Special Court for Narcotic Drugs and Psychotropic Substances Act Cases, Madurai.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

SHAMIM AHMED, J.

Nsr

Order made in
Crl.R.C(MD)No.1053 of 2025

20.11.2025