



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

CRM-M No.8283 of 2021
Reserved on: May 7th, 2025
Pronounced on: May 23rd, 2025

M/s SRM University and others

.....Petitioners

Versus

Haryana Pollution Control Board, Panchkula

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Argued by: Mr. R.S. Rai, Senior Advocate
with Mr. J.S Toor, Mr. Mayank Mathur, Ms. Sonal Joshi
and Ms. Prachi Gupta, Advocates
for the petitioners.

Mr. Pankaj Kundra, Advocate
for Mr. Deepak Sabherwal, Advocate
for the respondent.

MANJARI NEHRU KAUL, J.

Petitioners have invoked the inherent jurisdiction of this Court under Section 482 of the Cr.P.C. seeking quashing of criminal complaint No.32/2020 dated 02.09.2020 (Annexure P-11) titled as 'Haryana Pollution Control Board Versus M/s SRM University and others' filed under Sections 44 and 47 for violation of Section 25 of The Water (Prevention and Control of Pollution Act), 1974 (hereinafter referred to as 'the Water Act') and under Sections 37/40 of The Air (Prevention and Control of Pollution Act), 1981 (hereinafter referred to as 'the Air Act') and all the subsequent proceedings arising therefrom including the summoning order dated 02.09.2020 (Annexure P-12) passed by learned Presiding Officer, Special Environment Court, Kurukshetra.

2. Learned senior counsel appearing for the petitioners has assailed the summoning order dated 20.09.2020 passed by learned Presiding Officer, Special Environment Court, Kurukshetra, contending that the order suffers from manifest legal infirmities and reflects a mechanical exercise of jurisdiction, devoid of compliance with statutory preconditions laid down under the Water Act and the Air Act.

3. The learned senior counsel advanced the following submissions:

(i) **Erroneous Characterization Of Petitioners-Factual Foundation Vitiates:** The complaint erroneously refers to petitioner No.1 as a “builder company”, and petitioners No.2 to 4 as “authorized directors”. In truth, petitioner No.1 is a University established by a registered Public Charitable Trust, and petitioners No.2 to 4 are its trustees-not directors of any company. The invocation of Section 47 of the Water Act and Section 40 of the Air Act, which apply specifically to companies and their officers in charge, is thus legally untenable. The foundation of the complaint, premised on a categorical misstatement, stands vitiated. Section 47 of the Air Act reads as under:

“47. Offences by companies.-(1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to the company for the conduct of, the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was

committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where, an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation. For the purposes of this section,-

(a) "company" means any body corporate, and includes a firm or other association of individuals; and

(b) "director" in relation to a firm means a partner in the firm."

(ii) Absence of specific averments-trustees not liable

vicariously: Drawing a parallel to Section 141 of The Negotiable Instruments Act, it was argued that Section 47 of the Water Act mandates specific pleadings regarding the role and responsibility of individuals sought to be prosecuted. In the complaint (Annexure P-11), there are no allegations, much less specific, that petitioners No.2 to 4 were in charge of and responsible for the conduct of the affairs of the University. Mere designation as trustees is insufficient. Reliance was placed on *S.M.S. Pharmaceuticals Ltd. Versus Neeta Bhalla and another, 2001(10) SCC 218, M/s Pepsi Foods Ltd. and another Versus Special Judicial Magistrate and others AIR 1998 Supreme Court 128, State of N.C.T. of Delhi Versus Rajiv Khurana, 2010 (3) RCR (Crl.) 912*, wherein the Hon'ble Supreme Court underscored the necessity of

detailed averments to attract vicarious liability.

(iii) **Designated operational head-trustees lacked control:**

By way of reply dated 03.02.2016 (Annexure P-5), the petitioners had formally disclosed Mr. Manish Bhalla as the individual responsible for day-to-day operations of the University. This fact was never rebutted by the complainant. In the absence of any allegation implicating petitioners No.2 to 4 in the operational control of the University/institution, their prosecution is legally impermissible.

(iv) **Section 25 of the Water Act, inapplicable-no trade effluent discharged:** The complaint hinges on alleged violations of Section 25 of the Water Act. However, the inspection report dated 02.07.2019 (Annexure P-8) unequivocally records “trade effluent discharge: NIL”. The absence of any trade effluent discharge nullifies the statutory basis for prosecution under Section 25 of the Water Act, rendering the proceedings an abuse of process. Section 25 of the Water Act reads as under:

“25. Restrictions on new outlets and new discharges.[(1) Subject to the provisions of this section, no person shall, without the previous consent of the State Board,-

(a) establish or take any steps to establish any industry, operation or process, or any treatment and disposal system or any extension or addition thereto, which is likely to discharge sewage or trade effluent into a stream or well or sewer or on land (such discharge being hereafter in this section referred to as discharge of sewage).”

(v) **Authorized discharge into CSTP-legally compliant operation:** The University, located in Rajiv Gandhi Education City,

Sonipat, had obtained a valid sewer connection from HUDA and was discharging domestic sewage into the Common Sewage Treatment Plant (CSTP), for which HUDA possessed the required Consent to Operate (for short 'CTO') (Annexures P-6 and P-7). As the effluent was routed through a Government-approved system, the actions of the institution/University fell outside the purview of Section 25 of the Water Act.

(vi) **University not an “industrial plant”-Section 21 of the Air Act inapplicable:** It is argued that the petitioners operate an educational institution-not an industrial or manufacturing unit as contemplated under the Air Act. The mere existence of DG sets, permissible as standby power sources, does not convert the premises into an industrial plant. The categorization of the project as “green”, further supports the contention that no air pollutants or emissions attracting Section 21 of the Air Act were present.

(vii) **Post-facto CTO operates as ratification:** The University was granted consent to operate on 19.02.2020 (Annexure P-10), prior to the filing of the complaint. The CTO, issued after scrutiny by the authorities, regularized any past technical lapses. In the absence of *mala fides*, suppression of facts, or continuing violations, such grant constitutes ratification in law.

(viii) **Show cause reply ignored-indicative of mechanical action:** The reply dated 03.02.2016 clearly identified the responsible person, detailed operational compliance, and furnished requisite documentation. The complaint, however, does not even acknowledge this reply, thereby evidencing a lack of due diligence and procedural irregularity.

(ix) Summoning order non-speaking-demonstrates non-application of mind: The summoning order is devoid of reasoning and ignores key factual aspects-most notably, the inspection report recording “no trade effluent discharge”. In prosecutions involving environmental regulations, judicial satisfaction must be substantive and cannot be reduced to a formality.

(x) No allegation of environmental harm-procedural lapse alone cannot justify prosecution: The complaint is conspicuously silent on any environmental damage, contamination, or public complaint. The alleged breach pertains solely to procedural compliance, now rectified, which does not justify invocation of penal provisions.

4. In support of his submissions, the learned senior counsel, in addition, placed reliance upon *CRM-M-33010-2009* titled as *M/s Gurgaon Recreation Park Ltd. and others Versus Regional Officer, Gurgaon Region, Haryana State Pollution Control Board, CRM-M-44653-2016* titled as *Satish Kumar Sood Versus Haryana State Pollution Control Board and CRM-M-40017-2017* titled as *M/s Rajinder Singh & Brothers and another Versus Chandigarh Pollution Control Committee*.

5. *Per contra*, learned counsel for the respondent-Haryana State Pollution Control Board (hereinafter referred to as ‘Board’) contended that the summoning of the petitioners is legally justified and was preceded by due application of judicial mind to the materials on record. The prosecution, as per the learned counsel, is premised on admitted statutory violations. The key submissions made by the learned standing counsel for the Board are as follows:

(i) University operated without mandatory CTO:

The inspection conducted on 02.07.2019 (Annexure P-8) established that the University had commenced operations without securing the requisite CTO under Section 25 of the Water Act and Section 21 of the Air Act. Although CTO was subsequently granted on 19.02.2020, it was explicitly made “without prejudice to past violations”, and, therefore, does not absolve the petitioners from criminal liability for prior non-compliance.

(ii) Section 25 violation established-discharge required prior consent: The University had itself declared in its CTE application that 139 KLD of domestic effluent would be generated. This brought it squarely within the “red” category under the 2016-2018 Consent Management Policies. Section 25 of the Water Act mandates prior consent even for domestic discharges into a sewer, and the routing of effluent through a CSTP does not constitute a waiver of this statutory obligation

(iii) Discharge through CSTP not an exemption: It was categorically denied that discharge through HUDA's CSTP exempts the University from the mandate of Section 25 of the Water Act. While HUDA had obtained its own CTO, the University, being an independent discharge source, was separately required to seek and obtain consent

(iv) DG Sets trigger Section 21 of Air Act-source of emissions:

The inspection revealed the installation of DG Sets of 625 KVA and 250 KVA capacity-recognized sources of air pollution requiring prior CTO under Section 21 of the Air Act. The educational character of the

institution does not exempt it from regulatory scrutiny, as emissions are assessed based on activity, not nomenclature.

(v) Trustees cannot evade liability-statutory duty established:

It was submitted that Section 45 of the Water Act and Section 40 of the Air Act impose liability on persons in charge of the conduct of affairs of the offending unit. The petitioners' own reply (Annexure P-5) acknowledged their roles as trustees and authorized signatories, bringing them within the statutory net.

(vi) Opportunity to comply was given-delayed application for CTO: Despite issuance of a show cause notice on 05.07.2019 (Annexure P-9), the petitioners only applied for CTO on 08.01.2020. The CTO was eventually granted on 19.02.2020, but only after a clear lapse in compliance. The complaint was rightly filed in respect of operations conducted without consent.

(vii) Post-facto CTO does not cure past offences-policy allows parallel prosecution: As per policy order dated 26.02.2018 (Annexure R-1), CTO may be granted despite past violations, provided prosecution is simultaneously initiated. The express reservation contained in the CTO document confirms this position. Regularization cannot retroactively negate statutory violations.

(viii) University functioned from 2016 without consent-breach of CTE conditions: Although CTE was granted earlier, it expressly required the petitioners to obtain CTO before initiating trial operations. Admission data (Annexure R-2) confirms that the University became operational from 2016-2017: long before obtaining the CTO in 2020, thus violating the condition precedent stipulated in the CTE.

(ix) **Judicial mind applied-summoning order not mechanical:**

It is asserted that the learned trial Court considered the complaint and accompanying documents before issuing summons. The order dated 02.09.2020, though concise, reflects application of judicial mind and cannot be faulted merely for lack of elaboration.

(x) **Policy classification is binding-petitioners squarely fall under “red” category:** The 2016 and 2018 policy notifications classify educational institutions discharging over 100 KLD and possessing DG sets over 1 MVA under the red category. The petitioners with both qualifying parameters, are bound by the mandatory consent regime and cannot claim exemption.

6. However, learned standing counsel for the Board was unable to dispute that there are no specific averments against petitioners No.2 to 4, and also acknowledged that a designated individual, Mr. Manish Bhalla was declared as being in charge of the day-to-day affairs of the University.

FINDINGS OF THE COURT:

7. The first and foremost issue that arises for consideration is whether the summoning of the trustees, of the petitioner charitable trust, under the penal provisions of the Water Act and the Air Act, specifically under Sections 47 and 40 respectively, is legally sustainable in absence of any specific pleading qua their role and also when they had specifically deputed a person namely Mr. Manish Bhalla, who was responsible for day to day activity of the petitioner No.1.

8. Before proceeding further, it would be apposite to reproduce Section 47 of the Water Act, which is akin to Section 40 of

the Air Act, both providing for the liability of companies and their officers responsible for conduct of their affairs:

“47. Offences by companies.-(1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to the company for the conduct of, the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where, an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation. For the purposes of this section,-

(a) "company" means any body corporate, and includes a firm or other association of individuals; and

(b) "director" in relation to a firm means a partner in the firm.”

9. A bare perusal of the aforesaid provision reveals that it embodies the principle of vicarious liability in the realm of environmental offences. The said statutory provision is *pari materia* to

Section 141 of The Negotiable Instruments Act, 1881 as well as Section 33 of The Insecticides Act, 1968. In all the statutes cited hereinbefore, the criminal liability is not confined to the corporate entity alone but extends to individuals, who were, at the material time, responsible for and in charge of its operations.

10. It would be pertinent to note here that just like directors of a company, even the trustees do not *ipso facto* incur criminal liability merely by virtue of holding the said office. In order to hold them vicariously liable for offences committed by the trust, it is the statutory requirement of Section 47 of the Act that a person must be “in charge of and responsible for conduct of business”, which must be specifically pleaded in the complaint and established through evidence.

11. The Hon'ble the Supreme Court in ***State of NCT of Delhi Versus Rajiv Khurana: 2010 (3) RCR (Criminal) 912***, has emphasized that for officials of a Company to be held liable under such Statutes, the complaint must specifically outline the role of an accused and his responsibility with respect to the affairs of the Company. Hon'ble the Supreme Court in ***Rajiv Khurana's case (supra)***, held as under:

“18. The ratio of all these cases is that the complainant is required to state in the complaint how a Director who is sought to be made an accused, was in charge of the business of the company or responsible for the conduct of company's business. Every Director need not be and is not in charge of the business of the company. If that is the position with regard to a Director, it is needless to emphasise that in the case of non-Director officers, there is all the more necessary to state what were his duties and responsibilities in the conduct of business of the company and how and in what manner he is responsible or liable.”

12. The Hon'ble Supreme Court in *S.M.S. Pharmaceuticals Ltd. Versus Neeta Bhalla and another, 2001(10) SCC 218*, while interpreting the analogous provision under sec 141 of The Negotiable Instruments Act, unequivocally held that mere designation of an individual as a Director (or by parity, a trustee) is not sufficient to attract criminal liability. There must be clear and specific averments in the complaint to indicate how and in what manner the accused was responsible for the conduct of the business.

13. Adverting to the present case, a perusal of the complaint reveals that the respondent in Para No.3 has alleged that “...and accused no 2, 3 are it directors and having look after day to day affairs of the company. Thus, accused no. 2, 3 are responsible for all the acts, omissions & commissions of accused no. 1/company..”

14. Apart from the above assertion there is no whisper as to how and in what manner the petitioners No.2 and 3 are responsible for the day to day affairs of the company. It would be pertinent to note here that even the said assertions are only against petitioners No.2 and 3, and no such averment has been made against petitioner No.4 at all. Therefore, in view of the law laid down by the Hon'ble Supreme Court, the petitioners No.2 to 4 could not have been summoned in absence of specific pleadings qua their role in day to day affairs of the petitioner.

15. Still further, as per the admitted case of the respondent-Board, as has also been pleaded in the complaint, the trustees of petitioner No.1 had specifically deputed a personnel namely Manish Bhalla, who was responsible for day to day activities of petitioner No.1. Therefore, once a specific person has been deputed to look after the day

to day affairs, the petitioners No.2 to 4 could not be held liable for any alleged offence committed by the petitioner No.1.

16. The Hon'ble Supreme Court in *M/s Cheminova India Ltd. and anr. Versus State of Punjab and anr. 2021 (3) RCR (Criminal) 750*, while dealing with an identical issue, ruled that where a Company has designated/nominated a responsible Quality Control Manager, other officials including the Managing Director, cannot be held vicariously liable for quality issues unless specific allegations have been levelled against them with respect to the same. It would be relevant to reproduce the observations and findings of the Hon'ble Supreme Court in *Cheminova India Ltd. (supra)*:

“19. Section 33 of the Act deals with 'offences by companies'. A reading of Section 33(1) of the Act, makes it clear that whenever an offence under this Act has been committed by a company, every person who at the time the offence was committed, was in charge of, or was responsible to the company for the conduct of the business of, the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly. In the case on hand, it is not in dispute that on behalf of the 1st Appellant - Company, 2nd Appellant - Managing Director has furnished an undertaking dated 22.01.2013, indicating that Shri. Madhukar R. Gite, Manager of the Company, has been nominated in the resolution passed by the Company on 28.12.2012 to be in charge of and responsible to the said Company, to maintain the quality of the pesticides manufactured by the said Company and he was authorized to exercise all such powers and to take all such steps, as may be necessary or expedient to prevent the commission of any offence under the Act. Filing of such undertaking with the respondent is not disputed. Even, at Para 5.10 in the counter affidavit filed before this Court, it is pleaded by the Respondents that by appointing persons responsible for affairs of the Company, quality control, etc., 2nd Appellant - Managing Director cannot escape his liability from

offences committed by 1st Appellant - Company. In view of the specific provision in the Act dealing with the offences by companies, which fixes the responsibility and the responsible person of the Company for conduct of its business, by making bald and vague allegations, 2nd Appellant - Managing Director cannot be prosecuted on vague allegation that he being the Managing Director of the 1st Appellant - Company, is overall responsible person for the conduct of the business of the Company and of quality control, etc. In the instant case, the Company has passed a resolution, fixing responsibility of one of the Managers namely Mr. Madhukar R. Gite by way of a resolution and the same was furnished to the respondents by the 2nd Appellant in shape of an undertaking on 22.01.2013. When furnishing of such undertaking fixing the responsibility of the quality control of the products is not in dispute, there is no reason or justification for prosecuting the 2nd Appellant - Managing Director, on the vague and spacious plea that he was the Managing Director of the Company at the relevant time. A reading of Section 33 of the Act also makes it clear that only responsible person of the Company, as well as the Company alone shall be deemed to be guilty of the offence and shall be liable to be proceeded against.”

17. The case of petitioners No.2 to 4 is squarely covered by the judgment of the Hon’ble Supreme Court rendered in ***Cheminova’s case (supra)***, as admittedly Manish Bhalla was the person deputed as person responsible for day to day affairs, who has also been arraigned as an accused in the complaint. Hence, in the aforesaid facts and circumstances, the summoning of petitioners No.2 to 4 to face trial cannot be sustained and the impugned summoning order is set aside to the said extent.

18. Coming to the submissions raised by the counsel for petitioner that since, the petitioner No.1 is a “charitable trust”, Section 47 of the Water Act and 40 of the Air Act, which deals with offences by

the companies, would not apply and the petitioner No.1 cannot be proceeded against by virtue of the aforesaid inapplicable statutory provisions. This court finds no merit in the said submission. The ambit of Sections 47 and 40 of the Water Act and the Air Act, respectively, is broad and cannot be given a restrictive meaning to include only those companies which have been incorporated under the companies Act.

19. In order to further address the issue, it would be relevant to reproduce the explanation to Section 40 of the Air Act, which is as under:

*“Explanation. For the purposes of this section,-
(a) "company" means any body corporate, and includes a firm or other association of individuals; and
(b) "director" in relation to a firm means a partner in the firm.”*

20. The explanation leaves no manner of doubt that the term “Company” has been given a broader meaning by the legislature. The expression “other association of individuals” as appearing in clause (a) would within its ambit also include a charitable trust.

21. It has also been contended by the learned senior counsel for the petitioners that as per the admitted case of the respondent, no trade effluent was discharged by the petitioner No.1, therefore, Section 25 of the Water Act would be inapplicable. It would be apposite to reproduce Section 25 of the Water Act, which is as under:

“25. Restrictions on new outlets and new discharges.

—

[(1) Subject to the provisions of this section, no person shall, without the previous consent of the

State Board,—

(a) establish or take any steps to establish any industry, operation or process, or any treatment and disposal system or any extension or addition thereto, which is likely to discharge sewage or trade effluent into a stream or well or sewer or on land (such discharge being hereafter in this section referred to as discharge of sewage); or

(b) bring into use any new or altered outlet for the discharge of sewage; or

(c) begin to make any new discharge of sewage: Provided that a person in the process of taking any steps to establish any industry, operation or process immediately before the commencement of the Water (Prevention and Control of Pollution) Amendment Act, 1988 (53 of 1988), for which no consent was necessary prior to such commencement, may continue to do so for a period of three months from such commencement or, if he has made an application for such consent, within the said period of three months, till the disposal of such application.

(2) An application for consent of the State Board under sub-section (1) shall be made in such form, contain such particulars and shall be accompanied by such fees as may be prescribed.]

(3) The State Board may make such inquiry as it may deem fit in respect of the application for consent referred to in sub-section (1) and in making any such inquiry shall follow such procedure as may be prescribed. 1

[(4) The State Board may—

(a) grant its consent referred to in sub-section (1), subject to such conditions as it may impose, being—

(i) in cases referred to in clauses (a) and (b) of sub-section (1) of section 25, conditions as to the point of

discharge of sewage or as to the use of that outlet or any other outlet for discharge of sewage; (ii) in the case of a new discharge, conditions as to the nature and composition, temperature, volume or rate of discharge of the effluent from the land or premises from which the discharge or new discharge is to be made; and (iii) that the consent will be valid only for such period as may be specified in the order, and any such conditions imposed shall be binding on any person establishing or taking any steps to establish any industry, operation or process, or treatment and disposal system of extension or addition thereto, or using the new or altered outlet, or discharging the effluent from the land or premises aforesaid; or

(b) refuse such consent for reasons to be recorded in writing.

(5) Where, without the consent of the State Board, any industry, operation or process, or any treatment and disposal system or any extension or addition thereto, is established, or any steps for such establishment have been taken or a new or altered outlet is brought into use for the discharge of sewage or a new discharge of sewage is made, the State Board may serve on the person who has established or taken steps to establish any industry, operation or process, or any treatment and disposal system or any extension or addition thereto, or using the outlet, or making the discharge, as the case may be, a notice imposing any such conditions as it might have imposed on an application for its consent in respect of such establishment, such outlet or discharge. (6) Every State Board shall maintain a register containing particulars of the conditions imposed under this section and so much of the register as relates to any outlet, or to any effluent, from any land

or premises shall be open to inspection at all reasonable hours by any person interested in, or affected by such outlet, land or premises, as the case may be, or by any person authorised by him in this behalf and the conditions so contained in such register shall be conclusive proof that the consent was granted subject to such conditions.] (7) The consent referred to in sub-section (1) shall, unless given or refused earlier, be deemed to have been given unconditionally on the expiry of a period of four months of the making of an application in this behalf complete in all respects to the State Board. (8) For the purposes of this section and sections 27 and 30,— (a) the expression “new or altered outlet” means any outlet which is wholly or partly constructed on or after the commencement of this Act or which (whether so constructed or not) is substantially altered after such commencement; (b) the expression “new discharge” means a discharge which is not, as respects to nature and composition, temperature, volume, and rate of discharge of the effluent substantially a continuation of a discharge made within the preceding twelve months (whether by the same or a different outlet), so however that a discharge which is in other respects a continuation of previous discharge made as aforesaid shall not be deemed to be a new discharge by reason of any reduction of the temperature or volume or rate of discharge of the effluent as compared with the previous discharge.”

22. A perusal of clause (a) of sub section (1) of the above reproduced section makes it amply clear that the offence under Section 25 of the Water Act would not be committed only when effluent is

discharged, but the penal liability would also be attracted when a treatment or disposal system is established or any steps are taken for its establishment, without previous consent of the Board. In the present case it has been alleged by the respondent that the “Consent to Operate (“CTO”)” as well as “Consent to Establish (“CTE”)” was not obtained by the petitioner No.1 before the establishing and operating the Sewage treatment plant. Therefore, *prima facie* the ingredients of Section 25 of Air Act are made out and it cannot be said that the said provision is inapplicable in the present case.

23. This court also finds no merit in the submission that *post facto* CTO would operate as ratification of the past violations. Though petitioner No.1 had obtained CTO after the alleged violations, however, that would not purge the violations committed prior thereto. A perusal of the CTO (Annexure P-10) reveals that the CTO was granted to the petitioner No.1 on the specific condition that the same would be without prejudice to the previous violations. The said condition no. 5 is reproduced hereinbelow:

“5. That the CTO so granted is without prejudice to the violation done in past i.e operated without CTO from the Board.”

24. Learned senior counsel for petitioner No.1 has argued that the domestic sewage was being discharged into the CSTP qua which HUDA had obtained a valid CTO, therefore, the discharge would not amount to any violation under Section 25 of the Water Act. On the contrary the respondent has taken a stand that even the units discharging domestic effluents into HUDA CSTP need to obtain prior CTO and the

petitioner No.1 cannot take any benefit of CTO obtained by HUDA. Therefore, both the sides have raised disputed question of fact which would be a matter to be decided by the learned trial Court after taking evidence of the parties. This court in exercise of inherent jurisdiction under Section 482 of the Cr.P.C. cannot conduct a mini trial to appreciate evidence and decide on disputed questions of facts.

25. It is well-settled that the inherent jurisdiction under Section 482 of the Cr.P.C./528 of the BNSS is to be exercised sparingly and only in cases, where the allegations in the complaint are inherently absurd, frivolous or fail to disclose any offence whatsoever. Where material facts are disputed, and a factual inquiry is indispensable, this Court cannot usurp the jurisdiction of the trial Court by delving into contested issues.

26. It was also argued that the petitioner No.1 is an educational institution and not an industrial plant, therefore, Section 21 of the Air Act would not apply. However, this question cannot be decided at this stage. The allegations in the complaint referred to the installation of Diesel Generator (DG) sets of 625 KVA and 250 KVA, which under the applicable regulatory framework, are categorised as sources of air pollution requiring prior consent. The classification under environmental law is not based on the nomenclature of the entity, but on its potential for pollution. Whether such installation constitutes a violation of Section 21 of the Air Act is a mixed question of law and fact, which cannot be adjudicated under Section 482 of the Cr.P.C./528 of the BNSS. Moreover, the applicable Consent Management Policies place educational institutions generating more than 100 KLD of sewage

and operating high capacity DG sets under the “Red Category”, necessitating strict compliance with the consent framework. The question of whether the University was rightly so classified is again a matter requiring evidentiary assessment by the learned trial Court.

27. No doubt, the petitioner-University was incorrectly described as “builder company” in the complaint, however, this court finds force in submission of the learned standing counsel for the respondent-Board that this was a clerical misdescription, which does not vitiate the proceedings.

28. It is settled principle of law that while taking cognizance of offences and summoning accused to face trial, the court is only required to *prima facie* satisfy itself as to whether the essential ingredients to attract the mischief of offences alleged is made out or not. The trial court is not expected to delve into veracity of the allegations or appreciate the defence of the accused so as to conduct a mini trial at this stage. Therefore, the impugned summoning order does not warrant any interference qua the petitioner No.1.

29. In the above facts and circumstances, once the ingredients of the offences alleged against petitioner No.1 are *prima facie* made out, this court would be exceeding its jurisdiction under Section 482 of the Cr.P.C. by quashing the complaint, which raises environmental concerns. The Environmental laws are meant to safeguard the natural resources and public health for current and future generations, thus, they require strict enforcement. In the wake of growing threats like pollution, climate change and deforestation, strict legal action is necessitated, wherever violations are reported, to deter environmental harm so as to

protect and preserve our planet.

30. Consequently, this instant petition is allowed only qua petitioners No.2, 3 and 4 and the impugned complaint as well as summoning order is quashed qua them. The proceedings shall continue qua petitioner No.1 and other accused, except petitioners No.2, 3 and 4.

31. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

May 23rd, 2025
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes