



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

1) CRM-M-3058-2011 (O&M)
Date of decision: 20.02.2025

K.K. Talwar

Versus

State of Punjab ...Respondent

2) CRM-M-33843-2010 (O&M)

J.P. Himachal Cement and anotherPetitioners

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. A.P.S. Deol, Senior Advocate
with Mr. Vishal Lamba, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

HARPREET SINGH BRAR, J.

1. This common judgment shall decide both the aforementioned petitions as they arise from a similar factual matrix. However, for the sake of brevity, the facts are taken from CRM-M-3058-2011.

2. The present petition(s) has been preferred under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter 'Cr.P.C.') seeking quashing of:

CRM-M-3058-2011	FIR No.10 dated 15.05.2010 registered under Section 4 Land Preservation Act, 1900, Sections 29, 33, 52, 63 of the Indian Forest Act, 1927, Section 2 of Forest Conservation Act, 1980 and Section 3,5 Prevention of Damage to Public Property Act, 1984 at Police Station Kirtatpur Sahib including final report under Section 173 Cr.P.C.
CRM-M-33843-2010	Complaint No.33 dated 17.04.2010 registered under Section 4 of the Land Preservation Act, 1900, Indian Forest Act, 1927 and Forest Conservation Act. 1980 as well as notice dated 17.04.2010.



as well as all subsequent proceedings arising therefrom.

3. Briefly, the facts, as alleged are that in the year 2010, Jaypee Himachal Cement Grinding and Blending Unit, a unit of J.P. Associates Limited, bought 141 kanals and 7 marla of land in village Dehni, Anandpur Sahib. It was reported that the company is engaging in stocking and lifting of clinker in a certain part of the said land, which is covered by the notification dated 19.04.1990 issued under Section 4 of the Punjab Land Preservation Act, 1900. Further, the angle and barbed wires were removed and a passage was made connecting the land of the accused-company with the national highway. It was further reported that this action was done at the instance of petitioner-K.K. Talwar, being the Senior Vice President of J.P. Associates.

4. Learned Senior counsel *inter alia* contends that the notification dated 19.04.1990 prohibits cutting of timber, burning of trees etc. but does not place an embargo on dumping any material. Moreover, the said notification ceased to operate 20 years after its issuance i.e. in the year 2010. The FIR(supra) is solely based on the damage report dated 26.02.2010 (Annexure P-6) prepared by the Forest Guard, which states that clinker was dumped in 2.5 acre of the land. However, no khasra number has been mentioned in the same. This is all the more important because only 22 kanal 14 marla falls under the purview of notification dated 19.04.1990. Further still based in the Demarcation Report dated 09.08.2010 (Annexure P-3) prepared by the Kanungo specifically states that only khasra no. 215,222,223,224,226,209 fall under the ambit of the said notification. It further states that these khasras were lying vacant and did not even have any trees.

5. He further contends that No Objection Certificate (Annexure P-4) was obtained from the District Commissioner, Rupnagar to establish clinker



feeder/ transit yard. Pertinently, a criminal complaint (supra) was already registered on 17.04.2010 i.e. prior to the FIR(supra) on similar allegations. As such, parallel proceedings are being carried out qua the same alleged offence. Finally, no notice or an opportunity to explain their conduct was issued to the petitioner or the company, by the Forest Range Officer, as mandated by Rule 9 of the Forest (Conservation) Rules, 2003. Learned Senior counsel submits that the petitioner and the company are ready to compound the offences, which otherwise only involves summary procedure, and pay compensation.

6. *Per contra* learned State counsel submits that while the notification dated 19.04.1990 expired on 18.04.2010, the concerned area was re-notified on 22.05.2012, valid for 30 years. It has been categorically stated therein that no commercial activity is allowed in the notified area, which includes dumping of clinker.

7. Having heard the learned counsel for the parties and after perusing the record with his able assistance, it transpires that allegedly, the company represented by the petitioner, was dumping clinker on land notified under Section 4 of the Punjab Land Preservation Act, 1990. While the initial notification i.e. notification dated 19.04.1990 ceased to operate on 18.04.2010, the area was re-notified on 22.05.2012 for another 30 years. It is also alleged that the company of the petitioner has constructed a road connecting the highway to the notified land.

8. The petitioner has been arraigned in FIR(supra) by virtue of the office he holds in J.P. Associates Ltd. However, a criminal complaint (supra) was already instituted against the company and the petitioner on similar allegations, a month prior to registration of FIR(supra). As such, there is no reason to continue criminal prosecution against the petitioner as the same



would violate the fundamental right of the petitioner against double jeopardy.

Article 20(2) of the Constitution of India categorically forbids double jeopardy.

The same is reproduced below:

Article 20- Protection in respect of commission of offences

xxx

xxx

xxx

(2) No person shall be prosecuted and punished for the same offence more than once.

Further, a two Judge bench of the Hon'ble Supreme Court in ***T.T. Antony vs. State of Kerala (2001) 6 SCC 181*** has conclusively held that a second FIR pertaining to the same occurrence cannot be registered. Speaking through Justice Syed Shah Mohammed Quadri, has opined as follows:

*“20. The scheme of the Criminal Procedure Code is that an officer in charge of a Police Station has to commence investigation as provided in Section [156](#) or [157](#) of Criminal Procedure Code on the basis of entry of the First Information Report, on coming to know of the commission of a cognizable offence. On completion of investigation and on the basis of evidence collected he has to form opinion under Section [169](#) or [170](#) of Criminal Procedure Code, as the case may be, and forward his report to the concerned Magistrate under Section [173](#)(2) of Criminal Procedure Code **However, even after filing such a report if he comes into possession of further information or material, he need not register a fresh FIR**, he is empowered to make further investigation, normally with the leave of the court, and where during further investigation he collects further evidence, oral or documentary, he is obliged to forward the same with one or more further reports; this is the import of sub-section (8) of Section [173](#) Criminal Procedure Code, 1973.*

*21. From the above discussion it follows that under the scheme of the provisions of Sections [154](#), [155](#), [156](#), [157](#), [162](#), [169](#), [170](#) and [173](#) of Criminal Procedure Code only the earliest or the first information in regard to the commission of a cognizable offence satisfies the requirements of Section [154](#) Criminal Procedure Code, 1973 **Thus there can be no second F.I.R. and consequently there can be no fresh investigation on receipt of every subsequent information in respect of the same cognizable offence or the same occurrence or incident giving rise to one or more cognizable offences.** On receipt of information about a cognizable offence or an incident giving rise to a cognizable offence or*



offences and on entering the F.I.R. in the station house diary, the officer in charge of a Police Station has to investigate not merely the cognizable offence reported in the FIR but also other connected offences found to have been committed in the course of the same transaction or the same occurrence and file one or more reports as provided in Section [173](#) of the Criminal Procedure Code.”

9. However, this Court does not find it proper to adjudicate upon disputed questions of facts while the complaint(supra) is pending consideration before the learned Court below. The matter requires to be adjudicated by the learned trial Court on the basis of the evidence adduced by the parties and the probable defence as set up by the petitioner cannot be gone into at this stage. A two Judge bench of the Hon’ble Supreme Court in ***HMT Watches Limited vs. M.A. Abida (2015) 11 SCC 776*** has held that inherent powers under Section 482 of the Cr.P.C. cannot be extended to determining question of facts. It is only for the trial Court to determine the disputed questions of fact after examining the evidence on record and interference by this Court with regards to factual questions is impermissible in law. A two Judge bench of the Hon’ble Supreme Court in the ***Rathish Babu Unnikrishnan Vs. State (Govt. of NCT) 2022 SCC Online SC 513***, speaking through Justice Hrishikesh Roy, observed as under:

“17. The consequences of scuttling the criminal process at a pre-trial stage can be grave and irreparable. Quashing proceedings at preliminary stages will result in finality without the parties having had an opportunity to adduce evidence and the consequence then is that the proper forum i.e., the trial Court is ousted from weighing the material evidence. If this is allowed, the accused may be given an un-merited advantage in the criminal process. Also because of the legal presumption, when the cheque and the signature are not disputed by the appellant, the balance of convenience at this stage is in favour of the complainant/prosecution, as the accused will have due opportunity to adduce defence evidence during the trial, to rebut the presumption.”



Reliance in this regard can also be placed on the judgment rendered by the Hon'ble Supreme Court in *Sampelly Satyanarayana Rao vs. Indian Renewable Energy Development Agency Limited (2016) 10 SCC 458*.

10. In view of the discussion above, the following conclusions are drawn:

- (i) The petition bearing No. CRM-M-3058-2011 is allowed and FIR No.10 dated 15.05.2010 registered under Section 4 Land Preservation Act, 1900, Sections 29, 33, 52, 63 of the Indian Forest Act, 1927, Section 2 of Forest Conservation Act, 1980 and Section 3, 5 Prevention of Damage to Public Property Act, 1984 at Police Station Kirtatpur Sahib and all subsequent proceedings arising therefrom are quashed qua the petitioner.
- (ii) The petition bearing No. CRM-M-33843-2010 is disposed of with the directions to the learned trial Court to consider the status report dated 11.11.2024, submitted by the Forest Range Officer, Sri Anandpur Sahib.
- (iii) The trial Court would retain the liberty to add all the relevant sections under various statutes, as mentioned in the FIR (supra), by taking recourse to Section 216 of Cr.P.C., if it deems necessary.

11. Pending miscellaneous application(s), if any, shall also stand disposed of.

12. A photo copy of this order be placed on the file of connected case.

(HARPREET SINGH BRAR)
JUDGE

20.02.2025
Neha

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