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

CRM-M-40968-2025

Date of decision: 01.08.2025

Rattan Amol Singh and others

....Petitioners

Versus

State Through Sh. Harbinder Singh,
Forest Range Officer, Harike

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Surjeet Bhadu, Advocate;
Ms. Sanya Thakur, Advocate and
Mr. Veer Singh, Advocate
for the petitioners.

Mr. Subhash Godara, Addl. A.G., Punjab.

HARPREET SINGH BRAR, J. (ORAL)

1. The present petition has been preferred under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter 'BNSS') seeking quashing of Complaint No.31 of 2018 under Sections 2, 28, 29, 32 of the Wildlife Protection Act, 1972 and the 1975 Rules titled '*DFO vs. M/s Chadha Sugars and others*' and the impugned summoning orders dated 16.11.2018 (Annexure P-2) and 15.02.2023(Annexure P-3) passed by the learned Judicial Magistrate Ist Class, Patti, as well as all consequent proceedings arising therefrom.

2. Succinctly, the facts of the case, as alleged, are that petitioner No.4 is a company that runs a sugar factory, a grain-based distillery and a molasses-based distillery in Village Afghana, Tehsil Batala, District Gurdaspur. In the year 2017-18, the said complex saw an increase in sugarcane crushing, which led to an increased production of sugar and bio-products such as molasses. The molasses produced was stored in open polyethylene covered molasses pits.



However, due to a sudden increase in temperature caused by an unanticipated heat wave, the molasses self-ignited on 16.05.2018. Consequently, the molasses overflowed from the plant, into the Beas river via the Kanhuwan drain. Taking note of the same, complaint(supra) was filed.

3. Learned counsel for the petitioners *inter alia* contends that petitioner No.4 has complied with all the prescribed norms. The overflow of molasses into the Beas river occurred due to an unprecedented heat wave and not due to any negligence on part of the petitioners. In the complaint(supra), it is alleged that many fish had died due to discharge of some poisonous substances into the Beas river. However, petitioner No.4 has not been named as an accused therein. Further, learned counsel submits that according to analysis report dated 17.05.2018 (Annexure P-10) prepared by the Dean, College of Fisheries, Guru Angad Dev Veterinary and Animal Sciences University, Ludhiana, neither any major contamination was detected in the fish, water or sediment samples nor was the fish mortality linked to any infection or disease. Furthermore, the complaint (supra) is based on the apparent changes in colour of the water body and the sudden death of many fish. There is nothing on the record that would attribute the occurrence to any act on part of the petitioners. In fact, the petitioners have been forced to appear before the learned trial Court for the past many years, in spite of the fact that pre-summoning evidence has not been produced. As such, it is clear that the petitioners have been summoned merely on the *ipse dixit* of the complainant, without application of judicial mind and indicating any reasons to justify the same. Reliance in this regard is placed on the judgments rendered by the Hon'ble Supreme Court in *M/s Pepsi Foods Ltd. vs. Special Judicial Magistrate (1998) 5 SCC 749* and *Ramdev*

Foods Products Pvt. Ltd. vs. State of Gujarat, (2015) 6 SCC 439



4. Learned counsel further contends that the complainant has instituted another complaint bearing No.41 of 2018 dated 31.10.2021 (Annexure P-14) before learned Judicial Magistrate Ist Class, Zira on the same set of allegations. A petition was moved seeking quashing of the same by means of CRM-M No.16787 of 2023 before this Court, wherein proceedings were stayed vide order dated 11.04.2023 (Annexure P-15). Moreover, the Punjab Pollution Control Board (hereinafter 'PPCB') had imposed a fine of Rs.5 crore vide order dated 24.05.2018, which has already been paid by petitioner No.4. The National Green Tribunal, Delhi (hereinafter 'NGT') had also ordered a joint investigation by the Central Pollution Control Board, the PPCB and the Punjab Fisheries State Development Board into the death of aquatic animals in river Beas. The report filed in furtherance of the same also exonerates the petitioners of any wrongdoing as the parameters were within the prescribed limits, as discernible from order dated 28.02.2019 (Annexure P-20) passed by the NGT. In fact, the PPCB issued a certificate renewing 'consent to operate an outlet under Section 25, 26 of the Water (Prevention and Control of Pollution), 1974' on 09.10.2019 (Annexure P-23). Furthermore, the prosecution of petitioners No.1 to 3, the officials of petitioner No.4, is not sustainable in the eyes of law in terms of the judgment rendered by the Hon'ble Supreme Court in ***Aneeta Hada vs. M/s. Godfather Travels and Tours Pvt. Ltd. (2012) 5 SCC 661***, as petitioner No.4 itself was not impleaded as an accused.

5. *Per contra*, learned State counsel submits that the contamination of river Beas resulting in death of a large number of fish occurred due to negligence on part of the petitioners to appropriately store molasses. As a matter of fact, the discharge thereof changed the colour of the river to



red/brown. Considering the long term detrimental effect of the same and its impact on the flora and fauna of the river, the learned trial Court has committed no error in summoning the petitioners.

6. Having heard the learned counsel for the parties and after perusing the record with their able assistance, it transpires that petitioners No.1 to 3, officials of petitioner No.4-the company, were summoned vide the impugned orders, without impleading petitioner No.4 itself. However, petitioners No.1 to 3 are officials of petitioner No.4, who are in-charge of day to day functioning of the company. As such, they cannot escape liability merely on the ground of non-impleadment of petitioner No.4 as an accused. Further, reliance on the judgment rendered in *Aneeta Hada (supra)* is misplaced as the same pertains to Negotiable Instruments Act, 1881 which is not comparable to the liability imposed by the Wildlife Protection Act, 1972.

7. As far as the matter of summoning is concerned, it is trite law that issuance of process must be done after due application of judicial mind. However, the trial Court is not required to provide detailed reasons to meet this threshold. Recently, a two Judge bench of the Hon'ble Supreme Court in ***Pramila Devi and others vs. State of Jharkhand and another*** 2025 SCC ***OnLine SC 886*** has held that the trial Court cannot be expected to pass detailed orders at every step of the process. It would be sufficient to indicate that the relevant material has been perused before summoning the accused. Speaking through Justice Ahsanuddin Amanullah, the following was opined:

“16. In the present case, we find that the Additional Judicial Commissioner has taken cognizance while recording a finding that - from a perusal of the case diary and case record, a prima facie case was made out against the accused, including the Appellants. In Bhushan Kumar v. State (NCT of Delhi), (2012) 5 SCC 424, this Court held that an order of



the Magistrate taking cognizance cannot be faulted only because it was not a reasoned order; relevant paragraphs being as under:

‘14. Time and again it has been stated by this Court that the summoning order under Section 204 of the Code requires no explicit reasons to be stated because it is imperative that the Magistrate must have taken notice of the accusations and applied his mind to the allegations made in the police report and the materials filed therewith.

15. In *Kanti Bhadra Shah v. State of W.B.* [(2000) 1 SCC 722 : 2000 SCC (Cri) 303] the following passage will be apposite in this context : (SCC p. 726, para 12)

“12. If there is no legal requirement that the trial court should write an order showing the reasons for framing a charge, why should the already burdened trial courts be further burdened with such an extra work. The time has reached to adopt all possible measures to expedite the court procedures and to chalk out measures to avert all roadblocks causing avoidable delays. **If a Magistrate is to write detailed orders at different stages merely because the counsel would address arguments at all stages, the snail-paced progress of proceedings in trial courts would further be slowed down.** We are coming across interlocutory orders of Magistrates and Sessions Judges running into several pages. We can appreciate if such a detailed order has been passed for culminating the proceedings before them. **But it is quite unnecessary to write detailed orders at other stages, such as issuing process, remanding the accused to custody, framing of charges, passing over to next stages in the trial.**”

(emphasis supplied)

16. In *Nagawwa v. Veeranna Shivalingappa Konjalgi* [(1976) 3 SCC 736 : 1976 SCC (Cri) 507] this Court held that it is not the province of the Magistrate to enter into a detailed discussion on the merits or demerits of the case. It was further held that in deciding whether a process should be issued, the Magistrate can take into consideration improbabilities appearing on the face of the complaint or in the evidence led by the complainant in support of the allegations. The Magistrate has been given an undoubted discretion in the matter and the discretion has to be judicially exercised by him. It was further held that : (SCC p. 741, para 5)

“5. ... Once the Magistrate has exercised his discretion it is not for the High Court, or even this Court, to substitute its own discretion for that of the Magistrate or to examine the case on merits with a view to find out whether or not the allegations in the complaint, if proved, would ultimately end in conviction of the accused.”



17. In *Chief Controller of Imports & Exports v. Roshanlal Agarwal* [(2003) 4 SCC 139 : 2003 SCC (Cri) 788] this Court, in para 9, held as under : (SCC pp. 145-46)

“9. In determining the question whether any process is to be issued or not, what the Magistrate has to be satisfied is whether there is sufficient ground for proceeding and not whether there is sufficient ground for conviction. Whether the evidence is adequate for supporting the conviction, can be determined only at the trial and not at the stage of inquiry. At the stage of issuing the process to the accused, the Magistrate is not required to record reasons This question was considered recently in *U.P. Pollution Control Board v. Mohan Meakins Ltd.* [(2000) 3 SCC 745] and after noticing the law laid down in *Kanti Bhadra Shah v. State of W.B.* [(2000) 1 SCC 722 : 2000 SCC (Cri) 303] it was held as follows: (*U.P. Pollution case* [(2000) 3 SCC 745], SCC p. 749, para 6)

‘6. The legislature has stressed the need to record reasons in certain situations such as dismissal of a complaint without issuing process. There is no such legal requirement imposed on a Magistrate for passing detailed order while issuing summons. The process issued to the accused cannot be quashed merely on the ground that the Magistrate had not passed a speaking order.’”

18. In *U.P. Pollution Control Board v. Bhupendra Kumar Modi* [(2009) 2 SCC 147 : (2009) 1 SCC (Cri) 679] this Court, in para 23, held as under : (SCC p. 154)

“23. It is a settled legal position that at the stage of issuing process, the Magistrate is mainly concerned with the allegations made in the complaint or the evidence led in support of the same and he is only to be prima facie satisfied whether there are sufficient grounds for proceeding against the accused.”

19. This being the settled legal position, the order passed by the Magistrate could not be faulted with only on the ground that the summoning order was not a reasoned order.’(emphasis supplied)”
(emphasis added)

Further still, it would be profitable to study Section 200 of the Code of Criminal Procedure, 1973 (now Section 223 of the BNSS), which reads as follows:

Section 200. Examination of complainant.



A Magistrate taking cognizance of an offence on complaint shall examine upon oath the complainant and the witnesses present, if any, and the substance of such examination shall be reduced to writing and shall be signed by the complainant and the witnesses, and also by the Magistrate:

Provided that, when the complaint is made in writing, the Magistrate need not examine the complainant and the witnesses--

(a) if a public servant acting or purporting to act in the discharge of his official duties or a Court has made the complaint; or

(b) if the Magistrate makes over the case for inquiry or trial to another Magistrate under section 192:

Provided further that if the Magistrate makes over the case to another Magistrate under section 192 after examining the complainant and the witnesses, the latter Magistrate need not re-examine them.

In the matter at hand, the complaint(supra) has been filed by District Forest Officer, a government official. As such, in view of Section 200(a), the learned trial Court is justified in not examining him before issuing process. Thus, the impugned summoning orders do not suffer from any perversity since the learned trial Court is satisfied qua existence of a *prima facie* case exists against the petitioners-accused.

8. Learned counsel for the petitioners has argued that the two complaints have been filed against the petitioners-accused with respect to the same set of allegations. However, the present case pertains to the first complaint, therefore, the argument qua double jeopardy cannot be sustained. If at all, this argument can be raised with regard to complaint No.41(supra), as it was filed later in time. Therefore, the contention qua parallel proceedings against the petitioners is bereft of any merit. Moreover, PPCB is a statutory body, discharging quasi-judicial functions. Therefore, any subsequent regularization by imposing penalty, granting of consent to operate or desecaling would not in any manner erase the criminal liability for the offence which led



to initiation of said proceedings. As such, the imposition of fine by the PPCB cannot be construed as an embargo on initiation of criminal prosecution against the accused.

9. Additionally, the findings referred to by the learned counsel for the petitioners i.e. report dated 17.05.2018 (Annexure P-10) Dean, College of Fisheries, Guru Angad Dev Veterinary and Animal Sciences University, Ludhiana as well as the report of the joint investigation mentioned in as discernible from order dated 28.02.2019 (Annexure P-20) passed by the NGT cannot be appreciate by this Court at this stage as the disputed questions of fact must be answered by the learned trial Court on the basis of the evidence adduced by the parties. In fact, it is settled law that probable defence of the accused cannot be appreciated by this Court in proceedings stemming from Section 482 of the Cr.P.C. (*now Section 528 BNSS*) when the matter is pending consideration before the learned trial Court. Reliance in this regard can be placed on the judgment rendered by Hon'ble Supreme Court in ***HMT Watches Limited vs. M.A. Abida (2015) 11 SCC 776*** wherein it has been unequivocally 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.

10. Further, 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.”

Additionally, in ***Sampelly Satyanarayana Rao vs. Indian Renewable Energy Development Agency Limited (2016) 10 SCC 458***, a two Judge bench of the Hon’ble Supreme Court, speaking through Justice Adarsh Kumar Goel, made the following observations:

“17. As is clear from the above observations of this Court, it is well settled that while dealing with a quashing petition, the Court has ordinarily to proceed on the basis of averments in the complaint. The defence of the accused cannot be considered at this stage. The court considering the prayer for quashing does not adjudicate upon a disputed question of fact.”

11. In view of the discussion above, the present petition is dismissed.

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

12. Nothing expressed herein above would be construed to be an opinion on the merits of the case.

(HARPREET SINGH BRAR)
JUDGE

01.08.2025

Neha

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