IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No.4288 of 2019

Prakash Chanda @ Prakash Chandra, aged 57 years, son of Late Bajrang Prasad Sinha, General Manager & Agent, Sayal "D" Mine, Barka – Sayal Area of M/s Central Coalfields Limited, resident of Flat No. 1 – B, Ratan Heights, Morabadi, P.O. – Morabadi, P.S.: Morabadi, District - Ranchi, PIN – 834008

… Petitioner

Versus

1. The State of Jharkhand
2. Sri Manoj Kumar Gupta, Inspector of Mines-cum-Deputy Director of Mines Safety, Ranchi Region, RI – III Building, CMPDI Campus, Kanke Road, P.O. – CMPDI, P.S. Gonda, District – Ranchi.

… Opposite Parties

With

Cr.M.P. No.2161 of 2018

Subir Chandra, aged 61 years, son of Late Dr. Mahabir Gopal Chandra, the then Director (Technical/Operation) / Nominated Owner of M/s Central Coalfields Limited, at present residing at 91A/5, Netaji Subhash Chandra Bose Road, Kolkata 40, P.O. & P.S. Regent Park, District Kolkata, West Bengal.

… Petitioner

Versus

1. The State of Jharkhand
2. Sri Manoj Kumar Gupta, Inspector of Mines-cum-Deputy

Director of Mines Safety, Ranchi Region, RI – III Building, CMPDI Campus, Kanke Road, P.O. – CMPDI, P.S. Gonda, District – Ranchi.

… Opposite Parties

For the Petitioners : Mr. Amit Kumar Sinha, Advocate
[in both Cr.M.P. No.4288 of 2019]
Mr. Anoop Kr. Mehta, Advocate
Mr. Pratyush, Advocate
Mr. Shubham Malviya, Advocate
[above three in Cr.M.P. No.2161 of 2018]

For the State : Mr. Bhola Nath Ojha, Spl.P.P.
[in Cr.M.P. No.4288 of 2019]
Mr. Santosh Kr. Shukla, Addl.P.P.
[in Cr.M.P. No.2161 of 2018]

For the O.P. No.2 : Mr. Sunil Kumar, C.G.C.
[in both Cr.M.P. No.4288 of 2019 & Cr.M.P. No.2161 of 2018]

P R E S E N T

HON'BLE MR. JUSTICE ANIL KUMAR CHOUDHARY

By the Court:-

1. Heard the parties.
2. Since both these Criminal Miscellaneous Petitions have been filed invoking the jurisdiction of this Court under Section 482 of the Code of Criminal Procedure with the self-same prayer to quash the entire criminal proceedings as well as the order dated 08.02.2018 passed by the learned Judicial Magistrate-1st Class, Ramgarh in connection with G (DGMS) Case No. 13 of 2018 whereby and where under the learned Judicial Magistrate-1st Class, Ramgarh has taken cognizance of the offences

punishable under Sections 70, 72A, 72C(1)(a) of the Mines Act, 1952; hence, both these Criminal Miscellaneous Petition are being disposed of by this common judgment.

3. The allegation against the petitioner of Cr.M.P. No. 2161 of 2018 is that the said petitioner being the Director (Technical/ Operation) and also the nominated Owner of Sayal "D" Mine, Barka – Sayal Area of M/s Central Coalfields Limited, in contravention of the Regulation Reg. 129(1) of the Coal Mines Regulation, 1957 read with D.G's Circular No. 7 of 1976 (Technical) and Reg. 127(1) & (3), all read with Section 18(1), 18(4) & 18(5) of the Mines Act, 1952, failed to construct retaining wall or to convert the brick wall into the water dam of standard design & construction of holding water after determining the possible head of water accumulation inside; which was being used for pumping from inside the wall, as required under the Statute; and also without such precautions and safeguards, deployed the persons in the prohibited areas lying beneath & within 60 metres of water logged workings, which resulted in a brick wall, partly converted into isolation stopping being used to hold water inside and being used for pumping out of water therefrom, suddenly failed to withstand the pressure of water body inside & was washed away resulting in rush of water through the main headings of an underground coal mine (Sayal 'D' Colliery of M/s Central Coaldfield Limited); due to which, two pump *Khalasis* Pravesh

Nonia & Ashok Kumar present in the main dip sump area of the mine, were washed & carried away into the main dip sump along with muck/mud & other materials in the way and died in the process due to drowning.

4. The allegation against the petitioner of Cr.M.P. No. 4288 of 2019 is that he being the General Manager & Agent, Sayal "D" Mine, Barka – Sayal Area of M/s Central Coalfields Limited for the same acts of omission as has been alleged against the petitioner of Cr.M.P. No. 2161 of 2018 – Subir Chandra, as already mentioned in the previous paragraph of this judgement, has also committed the same offences.

5. There was further allegation that the said contraventions constitute the offences which are punishable under Section 70A and 73 of the Mines Act, 1952. On the basis of the official Complaint filed by the Deputy Director of Mines Safety and the Inspector of Mines, Ranchi Region, the learned Judicial Magistrate-1st Class, Ramgarh took cognizance of the offences punishable under Sections 70, 72A & 72C(1)(a) of the Mines Act, 1952.

6. Learned counsel for the petitioners of the both these Criminal Miscellaneous Petitions submits that the petitioners are innocent and the provisions contained in Regulation 127(1) & (3) as well as Regulation 129(1) read with D.G's Circular No. 7 of 1976 are not attracted against the petitioners who, at the relevant time, were nominated owner of the Mine and the agent

respectively of Barka Sayal Area of M/s Central Coalfields Limited having the Office at Darbhanga House, Ranchi. It is next submitted that the responsibility of the nominated owner was to make financial provisions and other provisions and the agent was responsible for such other steps as may be necessary for compliance with the provisions of the Act. It is then submitted that the petitioner of Cr.M.P. No. 2161 of 2018 took charge of the Office of Director (Technical/Operation) on 01.10.2016 and the occurrence took place on 16.08.2017 at 7:15 AM. It is further submitted that it was known to the Office of the DGMS that flow of water at the place in question has been there since many years so, the petitioners could not have been prosecuted for committing any offence; which did not take place in their tenure.

7. Learned counsel for the petitioner of Cr.M.P. No. 4288 of 2019 further relies upon the judgment of a Co-ordinate Bench of this Court in the case of **D.K. Basu @ Dilip Kumar Basu vs. The State of Jharkhand & Another** passed in Cr.M.P. No.2735 of 2012 dated 11.08.2022 and submits that therein, the Co-ordinate Bench of this Court relied upon the relevant para of the order dated 20.03.2012 passed by another coordinate bench in Cr.M.P. No. 1415 of 2007 wherein, it was mentioned that the Owner, Agent and Manager can be prosecuted under the Mines Act vicariously but there is no provision for prosecution of deemed agent and since deemed agent has been not been mentioned in

the aforesaid provision, such deemed agent cannot be prosecuted vicariously. It is next submitted that since the accused No.3 & 4 have also been mentioned as agent, hence, the petitioner of Cr.M.P. No. 4288 of 2019 be treated as deemed agent. Hence, it is lastly submitted that the prayer as prayed for in both these Criminal Miscellaneous Petitions be allowed.

8. Learned Spl.P.P. and the learned Addl.P.P. appearing for the State and the learned C.G.C. for the opposite party No.2 on the other hand vehemently oppose the prayer of the petitioners and submit by relying upon the judgment of this Court in the case of **A.K. Mishra @ Awadh Kishore Mishra & Others vs. The State of Jharkhand & Another** passed in Cr.M.P. No. 445 of 2019 dated 10.11.2025 that in that case, this Court relied upon the judgment of a Co-ordinate Bench of this Court in the case of **Nageshwar Sharma vs. The State of Jharkhand** reported in **(2016) 4 JLJR 526** as in the facts of that case, there was direct and specific allegation against the petitioners of that case that they were under obligation to ensure that the mining operations are conducted in the Tapen North OCP (Open Caste Project) strictly in accordance with the provisions of the Mines Act, 1952, Rules, Regulations And Orders made therein; hence, this Court, in that case, dismissed the said Criminal Miscellaneous Petition. It is next submitted that in this case also, there is direct and specific allegation and both the owner and the agent are squarely liable both for making financial and

other provisions as well as taking such other steps as may be necessary for compliance with the provisions of the Act. It is further submitted that the contention of the petitioners that they were not under any obligation to comply with the provisions, is the defence of the petitioners which they can take during the trial of the case but certainly the same is not a ground to quash the entire criminal proceedings. Hence, it is submitted that these Criminal Miscellaneous Petitions, being without any merit, be dismissed.

9. Having heard the rival submissions made at the Bar and after carefully going through the materials available in the record, it is pertinent to refer to Section 18(1) of the Mines Act, 1952 which reads as under:-

> *"18. Duties and responsibilities of owners, agents and managers:–*
>
> *(1) The owner and agent of every Mine shall <u>each</u> be responsible for making financial and other provisions and for taking such other steps as may be necessary for compliance with the provisions of this Act and the regulations, rules, bye-laws and orders made thereunder." (Emphasis supplied)*

10. The use of the word 'each' in Section 18(1) of the Mines Act, 1952 by mentioning that the owner and the agent shall each be responsible, in the considered opinion of this Court, means that both the owner is responsible for making financial and other provisions as well as taking such other steps as may be necessary for compliance with the provisions of the Act and the agent is also responsible for the same in view of use of the word

'each' in the said provision. Hence, this Court is not accepting the submissions of the learned counsels for the petitioners that the owner is the only responsible for making financial and other provisions while the agent is responsible for taking such other steps as may be necessary for compliance with the provisions of the Act.

11. Now coming to the facts of the case, there is direct and specific allegation against the petitioners of failing to take steps as is necessary for compliance with the provisions of the Mines Act, Regulations, Rules & Circulars as already mentioned above in the foregoing paragraphs of this judgment. Therefore, this Court is of the considered view that the contention of the petitioners that the said regulations were not applicable to the facts of this case, is at best their defence which they can take during the trial of the case; but certainly, the same cannot be the ground to quash the entire criminal proceedings as well as the order taking cognizance dated 08.02.2018 at this stage by this Court in exercise of its power under Section 482 of the Code of Criminal Procedure; because evidence is required to be recorded for adjudication of such claim of defence of the petitioners.

12. Hence, this Court is of the considered view that this is not a fit case where the prayer of the petitioners made in these Criminal Miscellaneous Petitions is to be acceded to in exercise of its power under Section 482 of the Code of Criminal Procedure.

13. Accordingly, these Criminal Miscellaneous Petitions, being without any merit, are dismissed.

(Anil Kumar Choudhary, J.)

High Court of Jharkhand, Ranchi
Dated the 21st of September, 2026
AFR/ Saroj

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