



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

Reserved on : 29.04.2026
CRA-S-1421-2026 (O&M)
Pronounced on : 19.05.2026
Uploaded on : 19.05.2026

*Whether only operative part of the judgment is
pronounced or the full judgment is pronounced: operative part/full Judgment*

Sharif Ali

...Appellant(s)

VERSUS

State of Punjab

...Respondent(s)

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present :- Mr. K.S Lakhanpal, Advocate for the Appellant(s).

Mr. Mohit Kapoor, Sr. DAG Punjab.

VINOD S. BHARDWAJ, J.

1. The appellant has challenged the judgment of conviction and order of sentence dated 10.04.2026 passed by the Additional Sessions Judge, Hoshiarpur whereby while he was tried for case arising out of FIR No.185 dated 23.12.2020 registered under Section 379 and 411 of the Indian Penal Code, 1860 and Section 21(1) of the Mines & Minerals (Development and Regulation) Act, 1957 at Police Station Model Hariana, District Hoshiarpur but was convicted for offence under Section 21(1) of the Mines & Mineral (Development & Regulation) Act, 1957 (hereinafter referred to as 'the MMDR Act') and sentenced as under :-

Section	Sentence and Fine	In default thereof
21(1) of Mines & Mineral (Development & Regulation) Act, 1957	RI for a period of 1 year and a fine of Rs.5,000/-.	RI for a further period 01 months.

FACTS:

2. The facts, as emerging from the prosecution case, are that on 23.12.2020, ASI Ajit Singh along with other police officials was present at Police Station Hariana when Mining Officer Harminderral Singh, accompanied by members of his staff, appeared before the police authorities and submitted an application regarding illegal mining activities. Along with the said application, the Mining Officer also produced before the police a tractor make Mahindra 575 DI, red in colour, along with a trolley loaded with sand. It was alleged in the application submitted by the Mining Officer that on 23.12.2020 a checking operation against illegal mining was conducted in the area of Block Hariana and during the course thereof the aforesaid tractor-trolley loaded with sand was found stationed at Kailon Choe in Block Hariana. It was further alleged that upon noticing the arrival of the government vehicle, the driver of the said tractor-trolley fled from the spot after abandoning the vehicle. Upon inspection of the documents pertaining to the said tractor-trolley, no valid document authorizing transportation or mining of sand, including any weighment slip was recovered. On the basis thereof, the Mining Officer alleged that the sand loaded in the tractor-trolley had been illegally mined and transported in contravention of the provisions of the MMDR Act and requested initiation of

legal proceedings under Section 21(1) of the said Act.

3. Acting upon the aforesaid application, the present FIR under Section 21(1) of the MMDR Act came to be registered. During the course of investigation, the tractor-trolley loaded with sand was taken into police possession. The Investigating Officer ASI Ajit Singh, thereafter visited the place of occurrence and prepared the site plan. Statements of the witnesses were also recorded under Section 161 of the Code of Criminal Procedure. The investigation further revealed, upon verification from the Registering Authority, that tractor bearing registration No. PB-019-H-4584 was registered in the name of one Vinod Jaswal son of Nasib Chand, resident of Village Bassi Umar Khan, Police Station Hariana, District Hoshiarpur. During investigation, it was also found that the aforesaid tractor-trolley had been given on rent by the registered owner to accused Sharif Ali son of Basir Ali, resident of Village Bassi Umar Khan, Police Station Hariana, District Hoshiarpur. On the basis of the material collected during investigation, accused Sharif Ali was arrested in the present case. Subsequently, vide DDR No. 23 dated 05.03.2022, offences under Sections 379 and 411 of the Indian Penal Code were also added in the present case.

4. Upon completion of investigation and other legal formalities, the final report under Section 173 Cr.P.C. was prepared and presented before the competent Court.

5. Copies of Challan were supplied to the accused free of cost.

6. Upon consideration of the material placed on record and after hearing the prosecution as well as the accused, the trial Court formed an opinion that a prima facie case was made out against the accused for the

commission of offences punishable under Section 21(1) of the MMDR Act and Sections 379 and 411 of the Indian Penal Code. Consequently, charges for the aforesaid offences were framed against the accused, to which he pleaded not guilty and claimed trial.

7. In order to prove its case, prosecution examined the following witnesses, who tendered the following documents:

PW No.	Name & Designation	Documents Tendered
PW1	Harminderpal Singh	Written Complaint Ex. PA, Identification Memo of Accused Ex. PB, Complaint u/s 22 of MMDR Act Ex. PC and his posting order Ex. PD.
PW2	Insp. Ajit Singh	Written Complaint Ex. PA, Ruqa Ex. PW2/A, FIR Ex. PW2/B, Endorsement over ruqa Ex. PW2/C, site plan Ex. PW2/D, recovery memo Ex. PW2/E, written complaint u/s 22 of MMDR Act Ex. PC, Arrest Memo of Accused Ex. PW2/F, Identification Memo of Accused Ex. PB, Rent agreement of the tractor with accused Ex. PW2/H, recovery memo of tractor Ex. PW2/G, DDR Ex. PW2/J, order of Magistrate regarding Sapurdari of tractor trolley Ex. PW2/K, personal bond and sapurdari Ex. PW2/L and case property Ex. MO1.
PW3	Patwari Pawan Kumar	Jamabandi Ex. PW3/A
PW4	SI Avtar Singh	DDR Ex. PW2/J
PW5	Jaswinder Kaur	Posting Order of Mining Officer Harminderpal Singh Ex. PD and Notification of Punjab Government Ex. PW5/A

PW6	Kuldeep Singh	Screening Report of tractor Ex. PW6/A, Certificate u/s 63 of BSA Ex. PW6/B and RC of Tractor Ex. PW6/C
PW7	Vinod Jaswal	Rent Agreement of Tractor Trolley executed with the accused Ex. PW2/H
PW8	ASI Subash Chander	-
PW9	ASI Manjit Singh	-

Thereafter the prosecution evidence was closed.

8. After conclusion of the prosecution evidence, the statement of the accused was recorded under Section 313 of the Code of Criminal Procedure, wherein all incriminating circumstances appearing against him in the prosecution evidence were put to him. The accused denied the allegations levelled against him and pleaded false implication. However, the accused did not examine any witness in defence and, consequently, the defence evidence was closed.

9. Parties were heard at length and upon consideration thereof, vide judgment dated 10.04.2026, while the appellant was acquitted of the offences under Sections 379 and 411 of the Indian Penal Code, 1860, he was convicted for commission of offence under Section 21(1) of the MMDR Act. Vide order of sentence of even date, the appellant was sentenced as above. Hence the present appeal.

ARGUMENTS ON BEHALF OF THE APPELLANT

10. Learned counsel appearing on behalf of the appellant has vehemently contended that the trial Court has erred in recording conviction against the appellant by completely misreading and misappreciating the

evidence available on record. It has been argued that the prosecution case suffers from material contradictions, inherent improbabilities and serious infirmities striking at the very root of the prosecution story, yet the trial Court failed to appreciate the same in their proper perspective.

11. Learned counsel submits that the present FIR was registered against an unknown person and the appellant was subsequently roped into the present case, during the course of investigation, without there being any legally admissible evidence connecting him with the alleged occurrence. It has been argued that the prosecution has failed to establish beyond reasonable doubt that the appellant was the person who was driving the tractor-trolley at the relevant time.

12. Attention of the Court has been specifically drawn to the testimony of PW-1 Harminderpal Singh, Mining Officer, who, during his examination-in-chief, deposed that upon noticing the government vehicle, the driver of the tractor-trolley fled away from the spot after abandoning the tractor-trolley loaded with sand. Learned counsel submits that even in the initial application Ex.PA moved by the Mining Officer, it was alleged that the driver escaped after seeing the government officials. However, nowhere in the application nor in the substantive deposition before the Court did the Mining Officer state that he had actually identified or recognized the person who allegedly fled away from the spot.

13. It has further been contended that the trial Court failed to appreciate the inherent improbability in the prosecution version. PW-1 Harminderpal Singh, in his cross-examination, specifically admitted that the occurrence took place at about 2:00 AM during the intervening night of

22/23.12.2020. He further admitted that when he reached the spot, no driver was present there and only the tractor-trolley was found parked. Learned counsel submits that once the prosecution witness himself admitted that no person was present at the spot at the time of checking, the subsequent attempt made by the prosecution to identify the appellant as the driver becomes wholly doubtful and unreliable.

14. It has also been contended that the occurrence took place during night hours in the winter season, therefore, even otherwise it was practically impossible for the Mining Officer or any member of his team to have clearly seen or identified the person who fled away from the spot. Learned counsel submits that the prosecution has not produced any evidence whatsoever regarding the availability of sufficient lighting conditions enabling identification of the alleged driver at such odd hours of the night.

15. Learned counsel has further submitted that although during investigation the Investigating Officer got the appellant identified from PW-1 Harminderpal Singh vide identification memo Ex.PB, the said identification memo carries no evidentiary value whatsoever. It is contended that when PW-1 himself never deposed in Court that he had actually seen and recognized the driver at the spot, the subsequent identification procured during investigation becomes meaningless and wholly unreliable. Counsel submits that such identification is nothing but an afterthought introduced during investigation with a view to falsely implicate the appellant in the present case.

16. It has also been argued that the trial Court selectively relied upon the prosecution evidence while ignoring the material contradictions

emerging therefrom. The prosecution witnesses improved their versions during trial and sought to fill lacunae existing in the original prosecution story. However, the trial Court failed to examine the evidence with the caution required in criminal jurisprudence where the liberty of an individual is at stake.

17. Learned counsel submits that the entire prosecution case rests merely upon the fact that the tractor-trolley in question was found loaded with sand and that the registered owner of the tractor, namely Vinod Jaswal, stated that he had given the tractor-trolley on rent to the appellant vide agreement Ex.PW2/H. It is argued that such circumstance, by itself, is wholly insufficient to establish that the appellant was actually driving the vehicle at the relevant time or was involved in any alleged illegal mining activity.

18. It has further been contended that the trial Court gravely erred in drawing adverse inference against the appellant merely because he did not approach higher authorities claiming false implication. Learned counsel submits that criminal jurisprudence does not cast any burden upon the accused to establish innocence and the entire burden always remains upon the prosecution to prove its case beyond reasonable doubt. The failure of the appellant to make representations before higher authorities could not have been treated as a circumstance incriminating him.

19. Learned counsel has thus argued that the findings recorded by the trial Court are based upon conjectures and surmises rather than legally admissible evidence. The prosecution having failed to establish the identity of the offender beyond reasonable doubt, the appellant was entitled to

benefit of doubt. However, the trial Court, instead of scrutinizing the evidence in accordance with settled principles of criminal law, proceeded to convict the appellant by completely overlooking the material contradictions and improbabilities appearing in the prosecution case.

20. Learned counsel appearing on behalf of the appellant has vehemently contended that even otherwise, the entire prosecution case, insofar as it relates to the offences under the MMDR Act, stands vitiated in law on account of lack of jurisdiction in the Court to take cognizance, in the absence of a complaint, as mandatorily contemplated under Section 22 of the MMDR Act.

21. It is submitted that Section 22 of the MMDR Act begins with a clear and prohibitory mandate and expressly bars any Court from taking cognizance of an offence punishable under the Act or the Rules framed thereunder except upon a complaint made in writing by a person authorized in this behalf by the Central Government or the State Government. Learned counsel submits that the legislative intent underlying Section 22 is explicit and unambiguous that prosecution for offences under the MMDR Act cannot be initiated through the ordinary police machinery by filing of a police report under Section 173 Cr.P.C., but only through a statutory complaint presented before the competent Court by the authorized officer.

22. It is argued that the expression “no Court shall take cognizance except upon a complaint in writing” employed under Section 22 constitutes a complete embargo upon the jurisdiction of the criminal Court and the said requirement is not merely procedural but goes to the very root of the competence of the Court to entertain proceedings under the MMDR Act. In

absence of such statutory complaint, the assumption of jurisdiction by the Court becomes without authority of law and all consequential proceedings stand vitiated.

23. Learned counsel submits that, in the present case, the prosecution itself admits that the proceedings were initiated on the basis of an application submitted by the Mining Officer before the police authorities, pursuant where to an FIR came to be registered and investigation was thereafter conducted by the police. The police proceeded to record statements under Section 161 Cr.P.C., prepare site plans, effect seizure, arrest the accused and eventually presented a challan under Section 173 Cr.P.C. before the Court. It is contended that at no stage was any statutory complaint, as contemplated under Section 22 of the MMDR Act, presented before the court by an authorized officer seeking cognizance of offences under the MMDR Act and there is nothing on record to establish that the Investigating Officer was authorised under the MMDR Act to file the complaint before the Court.

24. It has been argued that the Court while proceeding on the basis of the challan presented by the police, effectively bypassed the mandatory statutory safeguard engrafted under Section 22 of the Act.

25. Learned counsel has further contended that the subsequent addition of offences under Sections 379 and 411 IPC also does not cure the fundamental defect insofar as the prosecution under the MMDR Act is concerned. Even assuming that investigation into theft-related offences under the IPC could be undertaken by the police, cognizance for offences punishable under Section 21 of the MMDR Act nevertheless remained

subject to the statutory embargo contained under Section 22. The trial Court, however, failed to maintain the distinction between offences under the IPC and offences under the special enactment and proceeded to assume jurisdiction in a manner contrary to the mandate of law.

26. It is thus contended that the cognizance of the offence under Section 21 of the MMDR Act, on the basis of a police challan, is patently illegal, without jurisdiction and contrary to the express statutory bar contained under Section 22 of the MMDR Act. Once the very assumption of jurisdiction by the Court under the MMDR Act is shown to be contrary to the statutory embargo, the conviction recorded thereunder becomes wholly unsustainable in law. It is thus contended that the impugned judgment of conviction and order of sentence deserve to be set aside and the present appeal consequently merits acceptance.

ARGUMENTS ON BEHALF OF THE STATE

27. Per contra, learned State counsel has vehemently opposed the submissions advanced on behalf of the appellant and has contended that the impugned judgment of conviction and order of sentence passed by the trial Court are based upon proper appreciation of oral as well as documentary evidence available on record and do not suffer from any illegality, perversity or infirmity warranting interference by this Court in appellate jurisdiction.

28. At the outset, learned State counsel submits that the entire argument sought to be raised on behalf of the appellant proceeds on hyper-technical interpretation of isolated portions of evidence while ignoring the cumulative effect of the prosecution material. It is contended that criminal cases are not required to be examined with mathematical precision and

minor discrepancies or omissions that do not strike at the core of the prosecution case should not be magnified so as to discard an otherwise reliable evidence.

29. Learned counsel submits that the prosecution has been able to establish through cogent and consistent evidence that the tractor-trolley in question was found abandoned at the spot during a checking operation conducted against illegal mining activities and that the vehicle was loaded with sand, without any lawful authorization or mining documents. The testimony of PW-1 Harminderpal Singh, Mining Officer, clearly establishes that the driver fled away from the spot immediately upon noticing the government vehicle, thereby demonstrating consciousness of guilt and illegal activity being undertaken.

30. It is submitted that merely because the FIR was initially registered against an unknown person would not render the subsequent investigation or identification of the appellant illegal or doubtful. Learned State counsel has further contended that the appellant has deliberately attempted to misread the testimony of PW-1 Harminderpal Singh. He submits that the witness consistently maintained that the driver fled away after seeing the government officials and there is nothing unnatural in the investigating agency subsequently identifying the appellant through investigation conducted on the basis of ownership and possession of the vehicle. The prosecution case does not rest solely upon ocular identification at the spot but upon a chain of incriminating circumstances collectively pointing towards the involvement of the appellant.

31. It has further been contended that the tractor-trolley recovered

from the spot was specifically identified through its make, colour, serial number and registration particulars. The prosecution examined PW-7 Vinod Jaswal, the registered owner of the tractor bearing registration No. PB-19-H-4584, who categorically deposed that he had rented out the said tractor-trolley to the appellant Sharif Ali for a monthly rent of Rs.30,000/- vide agreement Ex.PW2/H. Thus, once the appellant was admittedly in possession and operational control of the tractor-trolley at the relevant time, the burden shifted upon him to furnish some plausible explanation regarding the presence of the vehicle at the spot loaded with illegally mined sand. The said aspect would be specifically in the knowledge of the appellant and as per Section 106 of the Indian Evidence Act, 1872, the onus to explain the circumstances and facts of the tractor being involved in the offence falls upon him. The appellant has not disputed the argument nor put any suggestion about the vehicle not being leased to him. The appellant also failed to offer any explanation whatsoever either during investigation or during his statement under Section 313 Cr.P.C.

32. Learned State counsel submits that the contention regarding darkness and inability to identify the accused at 2:00 AM has been exaggerated beyond proportion. It is argued that the prosecution case is not based merely on fleeting facial identification in darkness but upon the cumulative chain of circumstances, including recovery of the vehicle, identification of ownership, rental agreement in favour of the appellant and absence of any explanation from the appellant regarding unauthorized use of the vehicle.

33. It has further been argued that the identification memo Ex.PB

should not be discarded merely because the witness did not expressly state in examination-in-chief that he had seen the face of the driver while fleeing. The evidence of witnesses is required to be read as a whole and not in isolated fragments. Learned counsel submits that minor omissions or lack of elaborate narration do not nullify the evidentiary worth of the identification proceedings conducted during investigation.

34. The State has also contended that the learned trial Court rightly appreciated that the appellant never lodged any complaint before higher authorities alleging false implication or misuse of his vehicle. While such circumstance may not by itself prove guilt, it nevertheless constitutes an additional circumstance supporting the prosecution version when viewed in conjunction with the remaining evidence on record.

35. Learned State counsel has emphasized that the prosecution is not required to prove its case with absolute mathematical certainty and that reasonable doubt cannot be stretched to fanciful or imaginary doubt. The chain of circumstances established on record clearly points towards the involvement of the appellant in illegal transportation and mining activity and sufficiently establishes his complicity in the commission of the offence. Counsel thus submits that the appellant has failed to demonstrate any material contradiction, illegality or perversity in the impugned judgment.

36. Learned State counsel has also opposed the submissions advanced on behalf of the appellant and has contended that the argument regarding absence of competence of the Court to take cognizance under Section 22 of the Mines and Minerals (Development and Regulation) Act, 1957 is wholly misconceived, untenable and liable to be rejected. At the

outset, learned State counsel submits that the objection regarding want of jurisdiction or incompetence of the Court to take cognizance was never raised by the appellant at any stage before the trial Court and is being raised for the first time before this Court in appellate proceedings. It is submitted that the appellant, despite having participated in the entire trial, never questioned the maintainability of the proceedings on the ground of non-compliance of Section 22 of the MMDR Act either at the stage of framing of charge, recording of prosecution evidence, examination under Section 313 Cr.P.C. or at the stage of final arguments before the trial Court. Thus, the appellant having consciously allowed the proceedings to continue without objection cannot now be permitted to raise such a technical plea at the appellate stage after conclusion of trial.

37. Learned counsel submits that the conduct of the appellant clearly demonstrates acquiescence in the proceedings and that the objection sought to be raised is purely technical in nature, devoid of any actual prejudice having been caused to the accused. It is contended that criminal proceedings should not be permitted to be frustrated on hyper-technical objections, particularly where no failure of justice has been demonstrated.

38. Counsel further contends that even assuming that there existed any irregularity in the mode of taking cognizance, the same would at best constitute a procedural defect curable under Section 465 of the Code of Criminal Procedure.

39. Learned State counsel has further contended that the present case does not involve inherent lack of jurisdiction of the Court of Sessions but, at best, concerns the procedural mode in which cognizance came to be

taken. It is submitted that jurisdiction of the learned Court of Sessions in the present matter stood independently attracted by virtue of the notification issued by the Government of Punjab under Section 30-B of the MMDR Act, whereby the Court of Sessions was notified as a Special Court for trial of offences under the Act of 1957. Therefore, the competence of the Court to try offences under the MMDR Act is not in dispute.

40. It is argued that once the Court itself was otherwise competent to exercise jurisdiction over offences under the MMDR Act, any alleged irregularity regarding the manner of institution of proceedings would not render the entire trial void ab initio. Learned counsel submits that the appellant is attempting to conflate absence of jurisdiction with irregular exercise thereof, whereas the two stand on fundamentally different legal footing.

41. The State has further contended that the legislative purpose behind Sections 460, 461 and 465 Cr.P.C. is to ensure that criminal proceedings are not frustrated on mere technicalities after full-fledged trial unless substantial prejudice or miscarriage of justice is established.

42. Learned counsel submits that the appellant has failed to demonstrate any actual prejudice occasioned by the absence of a complaint under Section 22 of the MMDR Act. The allegations regarding illegal mining, recovery of the tractor-trolley loaded with sand, seizure proceedings, ownership details and other incriminating material were all fully disclosed to the appellant. The appellant actively participated in the proceedings throughout and never raised any objection regarding competence of cognizance at any stage before the trial Court.

43. It is further argued that the interpretation sought to be advanced by the appellant would defeat the object of the MMDR Act and permit offenders involved in illegal mining activities to escape prosecution merely on procedural technicalities despite a full-fledged adjudication on merits. Learned State counsel submits that the provisions of the Cr.P.C. must receive purposive interpretation consistent with advancement of justice rather than technical annulment of proceedings.

44. Learned State counsel has thus submitted that the present case does not suffer from any jurisdictional nullity but, at best, involves an procedural irregularity incapable of vitiating the proceedings in absence of demonstrable prejudice or failure of justice.

45. It is contended that the appellant was fully aware of the allegations levelled against him from the inception of proceedings. The FIR, seizure proceedings, recovery of the tractor-trolley loaded with sand, investigation, witness statements and all relied-upon material were supplied to the accused in accordance with law. The accused actively participated in the proceedings, cross-examined witnesses and availed every opportunity available under law to defend himself. In such circumstances, according to the State, the plea of invalid cognizance is a mere technical objection not affecting the merits of the prosecution or the fairness of the trial.

46. Learned State counsel has further submitted that the object of Section 22 of the MMDR Act is not to shield offenders involved in illegal mining activities from prosecution on technical grounds but merely to regulate the manner of institution of proceedings. Once the competent mining authorities themselves had approached the police authorities

regarding illegal mining activities and the investigation was conducted pursuant thereto, substantial compliance with the statutory requirement stood achieved.

47. He has thus contended that the appellant has failed to establish either inherent lack of jurisdiction or any failure of justice occasioned on account of the alleged defect. The objection being belated, technical and curable in nature, no interference is warranted in the impugned judgment solely on such ground.

48. I have heard the counsel appearing for the parties and have gone through the record.

CONSIDERATION

49. A perusal of the impugned judgment of conviction passed by the trial Court demonstrates that the prosecution had succeeded in establishing the case against the appellant beyond reasonable doubt insofar as the allegations relating to recovery of the tractor-trolley loaded with sand are concerned. The trial Court upon appreciation of the oral as well as documentary evidence arrived at the conclusion that the tractor-trolley bearing registration No. PB-19-H-4584 was recovered from the spot during a checking operation conducted by the mining authorities and that the said vehicle was found loaded with sand without any valid permit, weighment slip or other lawful authorization pertaining to mining or transportation of the said mineral. The trial Court further noticed that the prosecution had established the identity and ownership of the offending vehicle through official records produced during trial. Particular reliance was placed upon the testimony of PW-2 Vinod Jaswal, the registered owner of the tractor-

trolley, who deposed before the Court that the said vehicle had been given by him on rent to the present appellant Sharif Ali for a monthly consideration of Rs.30,000/- pursuant to agreement Ex.PW2/H. The trial Court found the said testimony to be cogent and trustworthy and observed that the same established a direct nexus between the appellant and the offending vehicle recovered from the spot.

50. The trial Court also took into consideration the circumstance that the appellant failed to furnish any plausible or satisfactory explanation regarding the use and presence of the tractor-trolley at the place of occurrence or regarding the transportation of sand without valid documentation. The Court observed that once the prosecution had succeeded in establishing possession and operational control of the vehicle by the appellant, the absence of any satisfactory explanation on his part constituted an additional incriminating circumstance supporting the prosecution version.

51. Thus, the findings recorded by the trial Court, viewed purely from the standpoint of appreciation of evidence on merits discloses existence of sufficient material which would ordinarily sustain the conviction recorded against the appellant for the offences alleged under the special statute.

52. Chapter VII of the Indian Evidence Act, 1872 deals with Burden of Proof and Section 106 thereof reads thus:-

“106. Burden of proving fact especially within knowledge.

When any fact is especially within the knowledge of any person, the burden of proving that fact is upon him. Illustrations

(a) *When a person does an act with some intention other than that which the character and circumstances of the act suggest,*

the burden of proving that intention is upon him.

(b) *A is charged with travelling in a railway without a ticket.*

The burden of proving that he had a ticket is on him.”

53. Section 114 of the Indian Evidence Act, 1872 deals with presumption about existence of certain facts. Section 114 (g) of the Evident Act, reads thus:-

“114. Court may presume existence of certain facts.

The Court may presume the existence of any fact which it thinks likely to have happened, regard being had to the common course of natural events, human conduct and public and private business, in their relation to the facts of the particular case.

xxxxxxx

(g) *that evidence which could be and is not produced would, if produced, be unfavorable to the person who withholds it ;”*

54. It is evident from above that a fact which is in the knowledge of a person, the burden of proving, the same is on them, the same having not been produced, the Court may presume existence of the fact. An adverse inference may thus be drawn by the Court.

55. Hence, the chain of events clearly establishes that the actual and exclusive possession of the tractor and trolley loaded with illegally mined material, hence, it lies upon the appellant to offer a reasonable explanation.

56. However, the determinative issue which arises for consideration before this Court is whether the trial Court could at all have legally taken cognizance of the offences punishable under the MMDR Act, in the absence of a complaint in writing by an authorized officer, as mandatorily required under Section 22 of the said Act.

57. The principal objection raised by the appellant pertains to the competence of the Court to take cognizance of the offence punishable under Section 21 of the MMDR Act in the absence of a complaint in writing by an authorized officer as mandatorily contemplated under Section 22 of the said Act. The contention of the State that such plea cannot be permitted to be raised at the appellate stage since the same was not raised before the trial Court cannot be accepted. It is trite law that a pure question of law touching upon the jurisdiction and competence of the Court to entertain proceedings can be raised at any stage of the proceedings, including in appeal or even in collateral challenge. Where the root of the matter concerns the very authority of the Court to assume cognizance in the teeth of a statutory embargo, such objection would not stand foreclosed merely because the accused failed to raise it at an earlier stage. A defect pertaining to inherent lack of jurisdiction strikes at the very foundation of the proceedings and renders all consequential actions vulnerable in law.

58. Section 22 of the MMDR Act provides that “no Court shall take cognizance of any offence punishable under the Act or the Rules framed thereunder except upon a complaint made by a person authorized in this behalf”. The language employed by the legislature is prohibitory, mandatory and absolute in character. The use of the negative expression “no Court shall take cognizance except...” is indicative of a clear legislative intent to create a complete bar against assumption of jurisdiction except in the manner specifically prescribed by the statute itself.

59. The distinction between an irregular exercise of jurisdiction and complete absence of jurisdiction has to be carefully borne in mind. The

present case falls within the latter category. Once the substantive law itself places an embargo upon the mode and manner in which cognizance can be taken, any deviation therefrom directly affects the competence of the Court to proceed further.

60. This court vide judgment dated 09.01.2026 passed in **CRM-M-66839-2025** titled as **Jagdish Singh v. State of Punjab** has extensively examined the legal provisions and the judicial precedent on the subject and has held as under:

“14.1 It is evident from the above that in a cognizable offence, there are certain powers conferred on the investigating agency and procedure for regulation of such powers is specified in ‘Chapter XII’ Cr.P.C., which also provides the safeguards for the accused. On the other hand, a complaint, as defined under Section 2 (d) Cr.P.C., is to be instituted as per ‘Chapter XV’ Cr.P.C.

14.2 It is only after a final report as per ‘Chapter XII Cr.P.C.’ (in a cognizable offence), or a complaint having been instituted as per ‘Chapter XV’ Cr.P.C. that the question of commencement of proceedings before a Court arises. The aspect of ‘cognizance’ is dealt with at the stage of ‘Chapter XVII’ Cr.P.C. The bar of cognizance prescribed under Section 22 of the Act of 1957, has been applied in the context of ‘the Court’, hence, such a bar would not be applicable at a stage prior to the stage of cognizance.

14.3 There can be no assumption that the Legislature

was unaware of the expression used or of the separate procedure applicable to each proceedings, hence, both the clauses need to be harmoniously interpreted and applied.

14.4 In order to appreciate the controversy, it thus becomes necessary to examine the effect and interplay of Section 21 (6) with Section 22 of the Act of 1957. Undisputedly, Section 21 (6) of the Act of 1957 makes the offence cognizable, hence, as per law, an FIR can be registered and the investigation can be undertaken by the investigating agency. The proposition also stands fully settled by the Supreme Court in a catena of judgments including the judgments in the matter of Sanjay Kumar (supra), Pardeep S. Wodeyar (supra) as well as in the matter of Jayant Vs. State of Madhya Pradesh. The position in law thus needs no reiteration about the competence and jurisdiction of the investigating agency/police official to register an FIR, conduct investigation and to prepare a final report. It is only upon the conclusion of investigation that section 22 of the Act of 1957 becomes applicable. A plain reading of the Section 22 reveals that although it opens with a “non-obstante clause”, however, the limitation imposed thereby is consciously and deliberately confined to the power of “Court” to take cognizance of the offence and not to the authority of ‘any person’ or ‘investigating agency.’ Had the Legislature intended imposition of a universal and non-discriminatory prohibition encompassing investigation,

registration of FIRs or submission of final report, the statutory bar under Section 22 of the Act of 1957 would not have been qualified to taking of cognizance by the Court alone and instead there would have been a sweeping bar. The legislative wisdom underlying the provision clearly reflects a conscious demarcation between the investigative domain of the police and the jurisdictional threshold at which the Court may take cognizance. The restriction is thus designed to regulate and limit the exercise of judicial power at the stage of cognizance, while simultaneously preserving the statutory authority of the investigating agency to act in respect of cognizable offences.

14.5 The Legislature has thus devised a two-step process for proceeding in offence(s) under Act of 1957. At the first stage, by expressly declaring the offences to be cognizable, the Legislature has empowered the police not merely to register an FIR but also to follow the procedure for conducting investigation in the matter as prescribed for cognizable offences and thus carry out searches and seizures, effect arrests and detain persons, secure and preserve seized minerals or material and produce the accused and the case property before the competent forum, without being constrained by the procedural limitations applicable to non-cognizable offences. In this manner, the investigating agency has been equipped with an effective enforcement tool to promptly and efficaciously deal with violations of the statute. At the same time, the

Legislature was also cognizant of the fact that offences under special Statutes often involve technical, regulatory, and domain-specific considerations requiring specialised knowledge in relation thereto. Hence, at the second stage of taking of cognizance of the offence by the Court, the legislature has applied a statutory filter by mandating that prosecution of the case must be only through the process of the department i.e. by way of a complaint by an authorized person. The underlying object seemingly being that the competent authority under the special Statute be fully apprised of all the material that may have been collected by the investigating agency and is afforded an opportunity to scrutinise, evaluate and ascertain such evidence in the light of the regulatory framework of the special statute. The ‘authorized person’ is thereafter within liberties to take recourse to all/any such measures as are prescribed therein. Hence, assuming that in a specific circumstances, the special statute confers upon the competent authority the power to compound such offences at the departmental level, such notices may be issued by the authorized person and /or he may institute a complaint. The aforesaid prohibition is also intended to operate as a safeguard for a person accused of having committed an offence under the special statute.

14.6 The purpose behind imposing such a prohibition is to safeguard the individuals from frivolous or vexatious prosecution at the hands of mischievous persons. The statutory

embargo thus serves as an essential protective shield against abuse of the criminal process and unwarranted harassment of individuals. The Statute thus mandates that complaints for commission of the offences under the Act of 1957 should be routed only through the competent authorities designated under the special Statutes.

14.7 The position thus acts as checks and balances. Vesting of an absolute power solely and exclusively in the departmental domain may give rise to a cartelized unholy relationship between the wrong doer and the watchdog. Similarly, even the police was also not intended to be given unbridled sweeping powers in such matters which are more-often revenue centric. Hence, the Supreme Court took care of both the aspects in the matter of Jayant Kumar (supra) and struck a balance while keeping a check on both the agencies viz the police as well as the department.

14.8 The Division Bench categorically held that upon completion of investigation, the investigating agency is required to submit its final report along with the evidence collected to the authorized representatives/agents under the Special Act and may also forward the said report to the Illaqa Magistrate. I am of the opinion that the aforesaid procedural requirement needs to be mandatorily complied with and that the final report by the police should necessarily be forwarded also to the Illaqa Magistrate for record, lest any mischief is

committed by the colluding Departmental officials. In the event of any such collusion or dereliction, an unquestionable record would be readily available with the Illaqa Magistrate for initiation of departmental/penal proceedings against the erring officials. The said procedural safeguard can effectively redresses the possibility of any unholy nexus.

14.9 At the same time, a mere submission of the final report has not been applied as an expression of empowering the Illaqa Magistrate/the Special Judge to take cognizance of an offence qua which prohibition has been prescribed. The law does not pre-empt presumption of commission of an offence and such prima facie presumption may only be drawn after a complaint by an authorized person.

14.10 Further, the legal position as emerging from the judgment of the Supreme Court in the matter of Devendra Kumar (supra) (although in context of Section 195 of the Cr.P.C.), specifically holds that a statutory prohibition on taking of cognizance by a court cannot be invoked to interdict either the registration of the FIR or the conduct of investigation by the police and that the aforesaid exercise can be undertaken by the law enforcement agencies. The Supreme Court has hence recognised that such preliminary and investigative steps fall within the lawful domain of the investigating and law-enforcement agencies and are not eclipsed by the bar operating at the stage of cognizance.

15.1 The aforesaid principle had earlier been iterated and applied, in the specific context of the Act of 1957, by the Supreme Court, in the matter of Pardeep S. Wodeyar (supra) after making a specific reference to the judgment of Sanjay Kumar (supra), to hold that Section 22 of the Act of 1957 imposes a restriction only on the power of the Court to take cognizance and not on the authority of the police to register an FIR or to undertake investigation. It is specifically held therein that Section 22 of the Act of 1957 is intended to restrict the jurisdiction of the Court and not to curtail the statutory powers of the police and that while the police are competent to investigate allegations of contravention of the Act of 1957 and to submit a final report upon completion of such investigation, a police officer cannot insist that the competent Court should take cognizance of offences under the Act solely on the basis of such final report. The above said position in law was later reiterated in the matter of Jayant Vs. State of Madhya Pradesh (supra).

15.2 The same now leads to an inextricably linked issue where offences under other penal Statutes may also have been committed along with offences under the Act of 1957. The issue which thus comes up for consideration of this Court is as to whether, in such circumstances, the Illaqa Magistrate or the competent Court would be justified in framing charges in respect of such other offences and whether it would be

competent to take cognizance thereof or whether the statutory bar engrained under Section 22 of the Act of 1957 would still get attracted.

15.3 While deriving strength from the judgments of the Supreme Court referred to above, in such an eventuality, the Illaqa Magistrate/special Court is required to undertake an exercise with respect to the nature of the offences committed, the evidence collected and the essential ingredients specified for such offences. Where the nature of the allegations and the evidence so collected are such that they do not admit of segregation, and are incapable of being split up so as to give rise to an independent cause of action, distinct from the offence under the Act of 1957 and where such allegations are found to be intrinsically intertwined with the said offence, the bar under Section 22 of the Act of 1957 would nonetheless operate.

15.4 In such cases, the predominant nature of the allegations must necessarily be examined. A recourse to the provisions of the general law would not be permitted solely to override the prohibition imposed by the special statute. The invocation of general penal provisions, in the face of an express statutory embargo, would thus defeat the legislative intent and safeguard under Section 22. However, in circumstances where the material on record discloses the commission of other offences, that are truly distinct, independent, and severable from the offence under the Act of 1957, the bar under Section

22 would not per se interdict the Court from proceeding in accordance with law.

15.5 To illustrate, where there is an over extraction of the mineral in excess of the permissible limit and for which the royalty has not been paid, such conduct may, in a given case, also amount to commission of offences under the general provisions of IPC/BNS, 2023, however, such acts remain intrinsically intertwined with and form an integral part of the offence pre- dominantly under the domain of the Act of 1957. In such a situation, the offence, though clothed with additional penal consequences under the general law, continues to be governed by the special statute and the statutory bar under Section 22 would remain operative. At the same time, there may also be a situation where the accused person, in the course of committing an offence under the Act of 1957, may have committed other acts such as theft of tippers or loading machinery or may have caused death or bodily injury to another person during the course of the illegal mining operation. Such acts, though occurring in the course of the commission of an offence under the Act of 1957, are distinct, independent and severable offences in themselves. They are not integrally intertwined with the offences under the special statute but are merely connected as part of the same transaction in a factual sense. In such an eventuality, the bar under Section 22 of the Act of 1957 would not be extended so as

to provide an immunity from the prosecution for such independent offenses except on a complaint filed by the authorized person. Such an exercise, however, is required to be undertaken by the competent Court and the Statute nowhere debars the Court from proceeding to frame charges in respect of other distinct and independent offences.

xxx xxx xxx xxx xxx

16.2 *The preposition of law as above also requires to be examined from the perspective of Section 465 Cr.P.C. The position in law needs no elaboration that an order/sentence or judgment would not be set aside on an irregularity unless the same has occasioned a failure of justice. The provision embodies the legislative intent that criminal proceedings should not be rendered vulnerable to technical lapses unless they strike at the fairness of the process or cause real prejudice to the accused.*

16.3 *This Court is thus required to examine as to whether the order framing charge in the present cases is a mere procedural irregularity, curable under law or a foundational illegality and would thus occasion a failure of justice.*

16.4 *While under the ordinary circumstances, a person may not be in a position to impugn an order framing charge solely because it has been done by a superior Court as it may not reflect substantive injustice, however, where the issue fundamentally is as regards the maintainability of proceedings*

itself, an illegality in framing charge becomes substantial and goes to the root of the matter.

16.5 The prohibition under Section 22 of the Act of 1957 being absolute, the statutory protection cannot be eroded merely because the Special Court has proceeded to frame charges. Permitting such an act would amount to obliterating the legislative intent and rendering it otiose thereby erasing the legislation and validate an illegality. The defect in the present case is not one of a mere error in the exercise of jurisdiction, rather, it is a fundamental error of competence, maintainability and cognizance. Once the initiation of the proceeding itself has been held to be not maintainable and in violation of law, the consequential orders flowing therefrom would not be accorded judicial protection. To sustain such proceedings would be to countenance an action beyond the spirit of the law. The provision of Section 465 Cr.P.C. thus would not be construed so as to erode or override an express statutory prohibition.

16.6 It is also required to be kept in mind that procedural laws are hand-maiden of justice. The saving clause under Section 465 Cr.P.C. is designed to prevent miscarriage of justice on account of inconsequential or immaterial procedural lapses where no real prejudice has occasioned. It cannot be elevated to an enabling provision to validate proceedings that are illegal or to eclipse a substantive statutory enactment. The said provision is to safeguard the judicial time

and prevent reversal of proceedings on technicalities, where the trial is otherwise fair and lawful. It does not operate as a shield to protect proceedings that suffer from a illegality or are void ab initio. To apply the provision otherwise would be to subvert the legislative intent and undermine the rule of law itself.

16.7 *It is further evident in some cases a challenge to the proceedings has been filed belatedly and further proceedings may have been undertaken in the interregnum. However, once this Court has held that the proceedings were beyond law, the protection afforded under the Statute would not be denied. The error being fundamental and the defect being incurable, the burden and responsibility falls upon the Court to ensure that the defect is remedied at the first available opportunity instead of investing further judicial time in a wasteful final outcome.*

17.1 *Having considered that the law does not impose an absolute bar on the splitting up of offences, where such offenses are distinct and independent and do not form an integral part of the same transaction, the impugned orders framing charge have been examined in light thereof. I find that no such exercise has been undertaken by the Court in the present set of cases. Apparently, the Court proceeded with the framing of the charges assuming the jurisdiction in the matter and taking cognizance of the case. Such an approach, on the face of it is in conflict with the settled position of law governing the limits of*

jurisdiction and the procedure to be followed before cognizance can be lawfully taken.”

(emphasis supplied)

61. The aforesaid observations of this Court can be summed up as under:

- a. The MMDR Act and the Cr.P.C. operate in distinct yet harmonized spheres, with investigation governed by Chapter XII Cr.P.C. and complaint proceedings governed by Chapter XV Cr.P.C.
- b. The statutory bar under Section 22 of the MMDR Act applies at the stage of taking cognizance by the Court and does not prohibit registration of FIRs or police investigation.
- c. By virtue of Section 21(6) of the MMDR Act declaring offences as cognizable, police authorities are fully competent to register FIRs, investigate offences, conduct searches and seizures, arrest accused persons and submit final reports but are not authorised to initiate prosecution.
- d. The Legislature consciously preserved the investigative powers of the police while restricting only the Court's power to take cognizance except upon a complaint by an authorized officer.
- e. The MMDR Act envisages a two-stage mechanism:
 - i. investigation by police authorities; and
 - ii. prosecution before Court only through a complaint

filed by an authorized officer.

- f. The requirement of a complaint by an authorized officer ensures technical and regulatory scrutiny by the competent departmental authority before prosecution is initiated.
- g. Section 22 operates as a safeguard against frivolous or vexatious prosecution and maintains checks and balances between the police machinery and departmental authorities.
- h. Mere submission of a police report does not empower the Magistrate or Special Court to take cognizance under the MMDR Act in absence of a complaint by an authorized officer.
- i. The Hon'ble Supreme Court in *State (NCT of Delhi) v. Sanjay, Pardeep S. Wodeyar v. State of Karnataka, Jayant v. State of Madhya Pradesh and Devendra Kumar v. State of Uttaranchal* has affirmed that statutory bar on cognizance does not curtail police powers of investigation.
- j. Where IPC/BNS offences are inseparably intertwined with offences under the MMDR Act, the bar under Section 22 continues to operate and should not be circumvented by invoking general penal provisions.
- k. However, distinct and severable offences independent of the MMDR Act may still be prosecuted under general

criminal law.

- l. Section 465 Cr.P.C. would not cure foundational illegality or lack of jurisdiction arising from violation of the mandatory bar under Section 22 of the MMDR Act.
- m. The prohibition under Section 22 is absolute in nature and cognizance taken contrary thereto constitutes a defect affecting competence and maintainability of proceedings.
- n. Procedural provisions under the Cr.P.C. would not override or dilute an express statutory embargo contained in a special enactment.
- o. Once proceedings are initiated contrary to the mandate of Section 22 of the MMDR Act, all consequential proceedings stand vitiated.
- p. Before framing charges, the competent Court is required to determine whether the alleged offences are independent and severable or intrinsically intertwined with offences under the MMDR Act.”

62. In view of the aforesaid, I am of the opinion that the submission advanced on behalf of the State that the defect, if any, is curable under Section 465 Cr.P.C. also does not merit acceptance.

“Section 465 Cr.P.C. reads thus:-

Finding or sentence when reversible by reason of error, omission or irregularity.

(1) Subject to the provisions hereinbefore contained, no finding, sentence or order passed by a Court of competent jurisdiction shall be reversed or altered by a Court of appeal,

confirmation or revision on account of any error, omission or irregularity in the complaint, summons, warrant, proclamation, order, judgment or other proceedings before or during trial or in any inquiry or other proceedings under this Code, or any error, or irregularity in any sanction for the prosecution, unless in the opinion of that Court, a failure of justice has in fact been occasioned thereby.

(2) In determining whether any error, omission or irregularity in any proceeding under this Code, or any error, irregularity in any sanction for the prosecution has occasioned a failure of justice, the Court shall have regard to the fact whether the objection could and should have been raised at an earlier stage in the proceedings.”

63. It is evident from the above that only an error, omission or irregularity in the complaint, summons, warrants, proclamation, order, judgment or other proceedings would not be sufficient to reverse or alter the judgment. Even irregularity in sanction of prosecution may also not be sufficient to alter or modify an order. However, irregularity of sanction is not equivalent to ignore the bar on cognizance. Grant of sanction is a pre-requisite prescribed for taking cognizance but bar on taking cognizance is not an irregularity but imposes a prohibition on proceedings further in the case except if initiated as per the procedure prescribed in law.

64. It is a settled principle of statutory interpretation that what cannot be done directly under substantive law should not be permitted to be

achieved indirectly through procedural law. The provisions of the Code of Criminal Procedure, being procedural in nature, would not override, dilute or nullify an express substantive embargo created by a special statutory enactment. The MMDR Act is a parliamentary statute containing a specific mechanism regarding institution of prosecution and taking of cognizance. Once the special enactment mandates that cognizance can be taken only upon a complaint by an authorized officer, the said mandate would not be circumvented through recourse to the general procedural provisions of the Cr.P.C.

65. The doctrine *generalia specialibus non derogant* squarely applies in the present case. A special statute prevails over the general procedural framework to the extent of inconsistency. Thus, where the MMDR Act expressly restricts the mode of cognizance, the general provisions of the Cr.P.C. should not be invoked to validate proceedings initiated contrary to such mandate. Supreme Court in the case of ***Saiyad Mohammad Bakar El-Edroos v. Abdulhabib Hasan Arab & Others*** reported as **(1998) 4 SCC 343** has held as under:

“8. A procedural law is always in aid of justice, not in contradiction or to defeat the very object which is sought to be achieved. A procedural law is always subservient to the substantive law. Nothing can be given by a procedural law what is not sought to be given by a substantive law and nothing can be taken away by the procedural law what is given by the substantive law.”

66. The jurisdiction exercised by the Sessions Court in the present

case emanated from its status as a Special Court under Section 30-B of the MMDR Act. However, the power to try an offence cannot be conflated with the power to take cognizance in derogation of the mandatory statutory precondition prescribed under Section 22 and mere conferment of status as a Special Court does not obliterate or override the statutory embargo contained under Section 22 of the MMDR Act. The power of the Special Court to try offences under the Act cannot be divorced from the mandatory precondition governing institution of prosecution and taking of cognizance. Jurisdiction to try an offence and jurisdiction to take cognizance thereof are conceptually distinct. While the notification may empower the Sessions Court to function as a Special Court, the condition precedent prescribed under Section 22 nevertheless remained mandatory and indispensable.

67. The submission advanced on behalf of the State that no prejudice has been caused to the appellant and, therefore, the proceedings ought not to be interfered with, also does not warrant acceptance by this Court. The said argument fundamentally overlooks the distinction between a mere procedural irregularity occurring during the course of trial and a jurisdictional defect striking at the very competence of the Court to assume cognizance in the first instance. Once the statute itself commands that “no Court shall take cognizance” except in the manner prescribed therein, any cognizance taken contrary to such mandate becomes inherently void and without authority of law.

68. Jurisdiction is the foundational basis upon which the entire structure of criminal proceedings rests. If the foundation itself is absent, all consequential proceedings necessarily collapse. A Court deriving

jurisdiction contrary to a substantive statutory prohibition cannot validate such assumption of power merely on the ground that the accused participated in trial or that no demonstrable prejudice was occasioned during the proceedings. Absence of jurisdiction is not cured by acquiescence, waiver, participation or even by consent of parties.

69. The doctrine of “failure of justice” embodied in procedural law principally applies where the Court otherwise possesses lawful jurisdiction but some irregularity or omission has occurred in exercise thereof. However, where the competence to take cognizance itself is expressly barred by statute, the question of examining actual prejudice becomes wholly secondary. In such circumstances, the proceedings stand vitiated not because prejudice is demonstrated, but because the Court lacked legal authority to embark upon the proceedings in the first place and law assumes a prejudice when statutory bar is ignored.

70. The distinction between “irregular exercise of jurisdiction” and “absence of jurisdiction” has consistently been recognized in criminal jurisprudence. A defect pertaining to territorial jurisdiction, mode of inquiry or procedural compliance may, in a given case, require proof of prejudice, however, where the legislature expressly prohibits cognizance except in a specified manner, the breach thereof strikes at the very source of the Court’s power and renders the proceedings void ab initio.

71. The argument of the State, if accepted, would virtually render the statutory safeguard contained under Section 22 nugatory. It would amount to holding that despite the legislature expressly barring cognizance except upon a complaint by an authorized officer, the prosecution could

nevertheless proceed through an entirely different mechanism and subsequently seek protection under the plea that no prejudice has been caused. Such interpretation would defeat the legislative mandate and permit procedural law to override substantive statutory prohibition, which is impermissible in law.

72. I am therefore of the opinion that where cognizance itself is barred by the governing statute, the proceedings stand vitiated irrespective of proof of actual prejudice. Jurisdictional defects are not dependent upon demonstration of “failure of justice” in the conventional procedural sense, for the reason that the failure inheres in the very assumption of jurisdiction contrary to law. Once the root is defective, the superstructure built thereupon would not survive.

73. In the present matter, admittedly no complaint in writing by an authorized officer was presented before the competent Court. The entire prosecution proceeded on the basis of an FIR registered by the police and a subsequent report under Section 173 Cr.P.C. Such procedure may perhaps sustain prosecution for offences under the Indian Penal Code, if they are independent with mutual exclusion but insofar as offences under Section 21 of the MMDR Act are concerned, the same falls foul of the express statutory prohibition contained under Section 22. The consequence thereof is inevitable.

74. Accordingly, this Court is constrained to hold that the trial Court could not have legally taken cognizance of the offence punishable under Section 21 of the Mines and Minerals (Development and Regulation) Act, 1957, in the absence of a complaint in writing by an authorized officer,

as mandatorily required under Section 22 of the Act. The impugned proceedings, to that extent, are rendered unsustainable in law and deserve to be set aside.

75. Accordingly, the present appeal is **allowed**. The impugned judgment of conviction and the order of sentence dated 10.04.2026 passed by the Additional Sessions Judge, Hoshiarpur are hereby set aside and the appellant stands acquitted of the charges levelled against him.

76. The appellant, if confined in jail, be released forthwith, if not required to be detained in any other case.

(VINOD S. BHARDWAJ)
JUDGE

19.05.2026

Mangal Singh

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