

Jagat Vikram Singh vs State Of U.P. And Another on 30 April, 2025

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Bench: Saurabh Srivastava

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:68258

Court No. - 74

Case :- APPLICATION U/S 528 BNSS No. - 13908 of 2025

Applicant :- Jagat Vikram Singh

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Ashok Kumar Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Saurabh Srivastava,J.

1. Heard learned counsel for applicant and learned A.G.A. for the State.

2. The instant application has been preferred with the prayer to quash the impugned charge-sheet dated 04.01.2019, cognizance order dated 16.12.2019 and the entire proceedings of Case No.2428 of 2019 (State vs. Jagat Vikram Singh), arising out of Case Crime No.97 of 2018, under sections 379 I.P.C. and sections 21(4) of Mines and Minerals (Development and Regulation) Act, 1957 and sections 3, 57, 70 of U.P. Minor Minerals (Concession) Rules, 1963 and sections 3, 5 of Prevention of Damages to Public Property, 1984 and section 26 of Northern India Ferries Act, 1878, P.S.- Chikasi, District- Hamirpur, pending before learned Chief Judicial Magistrate, Hamirpur.

3. Learned counsel for applicant submitted that the FIR has been lodged by opposite party no.2, namely, Jitendra Singh, Mines Inspector, Hamirpur against applicant for the offence mentioned in the prayer clause. After concluding the investigation, concerned Investigating Officer submitted impugned charge-sheet dated 04.01.2019 under the said sections, whereupon learned court concerned took cognizance vide impugned order dated 16.12.2019 opining therein that from perusal of case diary, there is sufficient ground for taking cognizance of offence which impugned the present petition.

4. Learned counsel for applicant challenged the entire proceeding on the ground that admittedly the Act of 1957 is Special Act and Section 22 of the said Act clearly states that in respect of any offence punishable under the Act or any Rules made thereunder, no court shall take cognizance except upon complaint made in writing by a person authorized in this behalf by Central Government or State Government. For substantiating his argument, learned counsel for applicant relied upon judgment rendered by Hon'ble Apex Court in case of Jayant and Others vs. State of Madhya Pradesh, reported in (2021) 2 SCC 670, wherein it has been observed that even if the charge-sheet is filed by the police after the investigation then for the offence under the Indian Penal Code, learned Magistrate can take cognizance, but for the offence under the Act, 1957 along with the Rules, 2021, learned Magistrate cannot take cognizance on the basis of that charge-sheet and it is further observed that the Magistrate can take cognizance only when the complaint is filed by the authorized officer along with that charge-sheet for the offence under the Act, 1957 along with the Rules, 2021. He also relied upon judgment rendered by co-ordinate Bench of this Court passed on dated 14.05.2024 in Application u/s 482 no. 11544 of 2019 (Ajay Kumar vs. State of U.P. and Anr.).

5. Insofar as the offence under Section 3, 5 of Prevention of Damages to Public Property, 1984 is concerned, learned counsel for applicant submitted that co-ordinate Bench of this Court vide order 6.8.2020 passed in Application u/s 482 no. 9964 of 2020 (Munshi Lal and Another vs. State of U.P. and another), quashed the entire proceeding u/s 2/3 of Prevention of Damage to Public Property Act, 1984 and held that as far as criminal proceeding for illegal encroachment, damage or trespass over the land belonging to Gram Sabha is concerned, the same can be undertaken but it would be subject to the adjudication of rights of the parties over the land in dispute as the said determination can be done only by the revenue court. As far as the P.D.P.P. Act, 1984 is concerned, the same has been enacted with the specific purpose. the statement of objects and reasons of the said Act shows that it was enacted with a view to curb acts of vandalism and damage to public property including destruction and damage caused during riots and public commotion.

6. Regarding offence under Section 26 of Northern India Ferries Act, 1878, learned counsel for applicant submitted that the same pertains to payment of fine only in respect of plying unauthorized boat. Insofar as offence under Section 379 is concerned, learned counsel for applicant submitted that the section was imposed in pursuance of offence committed under the Mines and Minerals (Development and Regulation) Act, 1957.

7. Learned counsel for applicant submitted that applicant is valid holder of a patta which was allotted in his favour by District Mines Officer, Jhansi and in pursuance of the same, applicant was running his business as per the agreement and as such, he was implicated in the present case due to malafide

intention therefore, entire proceedings of the said case may be set aside.

8. Per contra, learned A.G.A. vehemently opposed the prayer sought through the instant application and rebutted the stand taken up by learned counsel for applicant, but at the same time, could not dispute the explanation made by learned counsel for applicant.

9. After hearing the rival submissions extended by learned counsels for the parties and by bare perusal of records, it transpires that present case is squarely covered with the judgment of co-ordinate Bench of this Court passed in Munshi Lal (supra) in pursuance of offence under Prevention of Damages to Public Property, 1984 and judgment rendered by Hon'ble Apex Court in case of Jayant and others (supra) as well as by this Court in Ajay Kumar in pursuance of offence under the Mines and Minerals (Development and Regulation) Act, 1957 as well as U.P. Minor Minerals (Concession) Rules, 1963. Insofar as offence under Northern India Ferries Act, 1878 is concerned, only fine can be imposed and as per the narration of the FIR, no offence is made out under the said Act. Insofar as offence under Section 379 is concerned, applicant has been implicated in the said section only in connection with the offence carried out by him under Mines and Minerals Act.

10. In view of the aforementioned facts and circumstances as well as in light of the judgments mentioned above, charge-sheet dated 04.01.2019, cognizance order dated 16.12.2019 and the entire proceedings of Case No.2428 of 2019 (State vs. Jagat Vikram Singh), arising out of Case Crime No.97 of 2018, under sections 379 I.P.C. and sections 21(4) of Mines and Minerals (Development and Regulation) Act, 1957 and sections 3, 57, 70 of U.P. Minor Minerals (Concession) Rules, 1963 and sections 3, 5 of Prevention of Damages to Public Property, 1984 and section 26 of Northern India Ferries Act, 1878, P.S.- Chikasi, District- Hamirpur, pending before learned Chief Judicial Magistrate, Hamirpur, are hereby quashed.

11. The instant application stands allowed accordingly.

Order Date :- 30.4.2025 Vivek Kr.