

(2025) 11 JH CK 1871

In the Jharkhand High Court

Case No : Criminal Miscellaneous Petition No.2305 Of 2025

Ayush Agrawal @ Ayush Agarwal

APPELLANT

Vs

State Of Jharkhand

RESPONDENT

Date of Decision : 04-11-2025

Acts Referred:

Bharatiya Nagarik Suraksha Sanhita, 2023 — Section 528
Indian Forest Act, 1927 — Section 33

Citation : (2025) 11 JH CK 1871

Hon'ble Judges : Anil Kumar Choudhary, J

Bench : Single Bench

Advocate : Pratik Sen, Prashant Kr. Rahul, P.K. Chatterjee

Final Decision : Allowed

Judgement

Anil Kumar Choudhary, J

I.A. No. 14557 of 2025

1. Heard the parties.

2. This interlocutory application has been filed with the prayer for early hearing of this criminal miscellaneous petition.

3. Since, hearing of this criminal miscellaneous petition is taken up today, hence, this interlocutory application is disposed of being infructuous.

Cr.M.P. No.2305 of 2025

1. Heard the parties.

2. This Criminal Miscellaneous Petition has been filed invoking the jurisdiction of this Court under Section 528 of the B.N.S.S., 2023 with the prayer to quash and set aside the entire criminal proceeding including the offence report being Complaint (C.F.) Case No.321 of 2025 alleging commission of the offences under Section 33 of the Indian Forest Act.

3. The brief fact of the case is that the petitioner along with the co-accused persons belong to the PRA India Private Limited and offence report has been submitted by the Forest Range Officer to the learned Chief Judicial Magistrate, Latehar alleging that under the NH-75 (New NH-39) encroachment of forest land was made for the purpose of widening of four lane road as part of the four lane construction project by PRA India Private Limited. On the basis of the said offence report, the case has been registered.

4. Learned counsel for the petitioner submits, by drawing attention of this Court to the page-12 of the supplementary affidavit dated 26.08.2025 which is the certificate of incorporation of PRA India Private Limited issued by the Registrar of Companies, Chattisgarh, that at page-12, it has categorically been mentioned that there are only four directors of the said company and the petitioner is one of the directors of the said company and not the proprietor of the said company, as alleged in the offence report.

5. Learned counsel for the petitioner relying upon the judgement of this Court in the case of Prakash Chandra vs. The State of Jharkhand reported in 2023 SCC OnLine Jhar 3565, next submits that in that case, this Court relied upon the judgment of the Hon'ble Supreme Court of India in the case of Ravindranatha Bajpe vs. Mangalore Special Economic Zone Ltd. reported in 2021 SCC OnLine SC 806 and held that in the absence of specific allegation against a person, who is the director of the company, of breaking of or cleaning of any land and in the absence of any specific date of encroachment and construction made in forest land being mentioned in the offence report and in the absence of any specific role attributed to the accused person of that case, as also in absence of any provision of vicarious law in the Indian Forest Act, this Court quashed the entire criminal proceeding against the accused person in that case.

6. Learned counsel for the petitioner then relies upon the judgment of Hon'ble Supreme Court of India in the case of Sanjay Dutt and Others vs. State Haryana and Another reported in 2025 SCC OnLine SC 32, paragraph-11 of which reads as under:-

"11. It appears that the Courts below proceeded on the erroneous assumption that the three appellants herein being responsible officers of the company are liable for the alleged offence. While a company may be held liable for the wrongful acts of its employees, the liability of its directors is not automatic. It depends on specific circumstances, particularly the interplay between the director's personal actions and the company's responsibilities. A director may be vicariously liable only if the company itself is liable in the first place and if such director personally acted in a manner that directly connects their conduct to the company's liability. Mere authorization of an act at the behest of the company or the exercise of a supervisory role over certain actions or activities of the company is not enough to render a director vicariously liable. There must exist something to show that such actions of the director stemmed from their personal involvement and arose from actions or conduct falling outside the scope of its

routine corporate duties. Thus, where the company is the offender, vicarious liability of the Directors cannot be imputed automatically, in the absence of any statutory provision to this effect. There has to be a specific act attributed to the director or any other person allegedly in control and management of the company, to the effect that such a person was responsible for the acts committed by or on behalf of the company. (Emphasis supplied)

and submits that therein the Hon'ble Supreme Court of India has in no uncertain manner held that while a company may be held liable for a wrongful act of its employees, the liability of the directors is not automatic and it depends upon specific circumstances particularly the interplay between the director's personal actions and the company's responsibilities.

7. It is next submitted that in para-13 of the said judgment which reads as under:-

13. It is the cardinal principle of criminal jurisprudence that there is no vicarious liability unless the statute specifically provides so. Thus, an individual who has perpetrated the commission of an offence on behalf of a company can be made an accused, if the statute provides for such liability and if there is sufficient evidence of his active role coupled with criminal intent. The primary responsibility is on the complainant to make specific averments as are required under the law in the complaint so as to make the accused vicariously liable. For fastening criminal liability on an officer of a company, there is no presumption that every officer of a company knows about the transaction in question." (Emphasis supplied)

the Hon'ble Supreme Court of India has reiterated the settled principle of law that there cannot be a vicarious liability unless the statute specifically provides for the same, hence, it is submitted that the prayer, as prayed for in the instant Cr.M.P, be allowed.

8. Learned Spl. P.P. appearing for the State fairly submits that the allegation made in the offence report that the petitioner belongs to the PRA India Private Limited is incorrect, in fact, he is the director of PRA India Private Limited, but it is submitted that the petitioner is squarely responsible for the acts committed by the said company in the name and style of PRA India Private Limited. Therefore, it is submitted that this Cr.M.P., 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 mention here that it is a settled principle of law as has been held by the Hon'ble Supreme Court of India in the case of Sanjay Dutt and Others vs. State Haryana and Another (Supra), that the liability of a director of a company for wrongful acts, if any, committed by the employees of the company is not automatic.

10. Now coming to the facts of the case, there is absolutely no allegation against the petitioner of himself having in any way indulged in widening of four lane road

as part of the four-lane construction project, the petitioner has been arrayed as an accused on the erroneous assumption that he belongs to PRA India Private Limited, which even the learned Spl. P.P. admitted to be incorrect. There is no specific allegation upon the petitioner of breaking up or cleaning the land in the protected forest area, thus, in the absence of any specific role of the petitioner and in the absence of any provision of vicarious liability in the Indian Forest Act, 1927, this Court is of the considered view that the continuation of this criminal proceeding against the petitioner will amount to abuse of process of law and this is a fit case where the entire criminal proceeding including the offence report being Complaint (C.F.) Case No.321 of 2025, be quashed and set aside qua the petitioner.

11. Accordingly, the entire criminal proceeding including the offence report being Complaint (C.F.) Case No.321 of 2025, is quashed and set aside qua the petitioner only.

12. In the result, this Cr.M.P., stands allowed.