

(2026) 01 JH CK 1845

In the Jharkhand High Court

Case No : Criminal Miscellaneous Petition No.705 Of 2021

Hindustan Copper Limited

APPELLANT

Vs

State Of Jharkhand

RESPONDENT

Date of Decision : 15-01-2026

Acts Referred:

Code of Criminal Procedure, 1973 — Section 482

Environment (Protection) Act, 1986 — Section 15, 19

Air (Prevention and Control of Pollution) Act, 1981 — Section 5(2)(f), 22, 43, 43(1)(a)

Citation : (2026) 01 JH CK 1845

Hon'ble Judges : Anil Kumar Choudhary, J

Bench : Single Bench

Advocate : Anoop Kr. Mehta, Praveen Tirkey, Suman Marandi, Prabhash Kumar, Manish Kumar

Final Decision : Dismissed

Judgement

Anil Kumar Choudhary, J

1. Heard the parties.

2. This Criminal Miscellaneous Petition has been filed invoking the jurisdiction of this Court under Section 482 of the Code of Criminal Procedure, 1973 with the prayer to quash the order dated 20.10.2020 passed by learned Additional Chief Judicial Magistrate, Ghatsila in connection with Complaint Case no. 271 of 2020 whereby learned Additional Chief Judicial Magistrate, Ghatsila has taken cognizance for the offence punishable under Section 15 of the Environment (Protection) Act, 1986, inter alia against the petitioner and passed the summoning order.

3. The brief fact of the case is that the petitioner M/s Hindustan Copper Limited, Surda Mines, was involved in the said mine, producing the copper ores, during the year 1992-93 to 2018-19 without obtaining Environmental Clearance from the Ministry of Environment and Forest, Government of India, in contravention

to the provisions of the Environment (Protection) Act, 1986.

4. Learned counsel for the petitioner draws the attention of this Court towards Section 19 of the Environment (Protection) Act, 1986 which reads as under:-

"19. Cognizance of offences.—No court shall take cognizance of any offence under this Act except on a complaint made by—

(a) the Central Government or any authority or officer authorised in this behalf by that Government; or

[(aa) adjudicating officer or any officer authorised by him in this behalf;] (b) any person who has given notice of not less than sixty days, in the manner prescribed, of the alleged offence and of his intention to make a complaint, to the Central Government or the authority or officer authorised as aforesaid."

and submits that since the complaint has not been made by the Central Government or any authority or officer authorized in this behalf, by the Central Government, hence, the complaint is not valid and, therefore, not sustainable in law. It is further submitted by learned counsel for the petitioner that the petitioner was having the necessary permission for the entire period, when the offence alleged to have been committed.

5. Learned counsel for the petitioner relies upon the judgment of the Hon'ble Supreme Court of India in the case of P. Pramila & Others. vs. State of Karnataka & Another reported in (2015) 17 SCC 651 wherein in the facts of that case, which relates to prosecution for the penalty for contravention of the Section 22 of the Air (Prevention and Control of Pollution) Act, 1981 and Section 43 of the Air (Prevention and Control of Pollution) Act, 1981 and the Air (Prevention and Control of Pollution) Act, 1981 envisage that no court shall take cognizance of any offence under the said Act except on a complaint made by a Board or any officer authorized in this behalf by it and as in the facts of that case, there was a notification/resolution dated 29.03.1989 which indicated that the officer authorized as mentioned in Section 43 (1) (a) was the Chairman of the Board, but the complaint was filed and the proceedings were initiated before learned Judicial Magistrate-1st Class, by the Regional Officer, in his capacity as a complainant, the Hon'ble Supreme Court of India, has held that the Regional Officer had no jurisdiction to file such complaint, as Section 43 of the Air (Prevention and Control of Pollution) Act, 1981, vested the authority, to file complaints with the Board, and the said Section 43 also authorized the Board to delegate the above authority to any "officer authorized by it in this behalf" and thus "the officer authorized in this behalf" was not authorized as per the provisions of Section 43 of the Air (Prevention and Control of Pollution) Act, 1981 or by any other provision thereof, to further delegate the authority to file complaints. Hence, the Chairman of the Board being himself delegated the power as the "officer authorised", therefore, the Chairman of the Board, had no authority to further delegate the power to file complaints, to any other authority, to enable the court concerned

to take cognizance of offences punishable under the penal provisions of the Air (Prevention and Control of Pollution) Act, 1981. It is then submitted that this case having been filed by the Regional Officer of Jharkhand State Pollution Control Board, Jamshedpur, on the basis of the invalid delegated power, as the power has been delegated to him by the Chairman of the Board, who himself having being delegated the power and thus, was not further entitled to delegate his delegated power, hence, the institution of the complaint was without jurisdiction.

6. Learned counsel for the petitioner further draws the attention of this Court towards Annexure-1 of the complaint, which is the letter of the Member Secretary, Jharkhand State Pollution Control Board, directing the Regional Officer to file the complaint, and submits that the same cannot be termed as the direction of Jharkhand State Pollution Control Board, in the absence of any resolution passed by Jharkhand State Pollution Control Board. Hence, it is submitted that the order dated 20.10.2020 passed by learned Additional Chief Judicial Magistrate, Ghatsila in connection with Complaint Case no. 271 of 2020 be quashed and set aside.

7. Learned AC to SC IV appearing for the State and the learned counsel for the opposite party No. 2 draw the attention of this Court towards the notification published in the Gazette of India, Extraordinary, dated 14.03.2017 of the Ministry of Environment, Forest And Climate Change Notification, New Delhi and submit that the Clause 13 (3) of the said Notification which reads as under:-

“(13)xxxxxxx

(3) In cases of violation, action will be taken against the project proponent by the respective State or State Pollution Control Board under the provisions of section 19 of the Environment (Protection) Act, 1986 and further, no consent to operate or occupancy certificate will be issued till the project is granted the environmental clearance”

is the relevant provision by which the Central Government has authorized Jharkhand State Pollution Control Board under Section 19 of the Environment (Protection) Act, 1986 to file complaint and as the complaint has been filed on behalf of Jharkhand State Pollution Control Board and the same has been expressly mentioned in paragraph-2 of the complaint that the complaint has been filed on behalf of Jharkhand State Pollution Control Board; therefore, merely because there is no reference of any resolution of the Board in the communication made to the complainant, by the Member Secretary, though it has categorically been mentioned therein that the draft of filing the case, has been approved by Jharkhand State Pollution Control Board; at this nascent stage, for non-production of a document to satisfy the petitioner- accused person of this case, that in fact, Jharkhand State Pollution Control Board, has made the complaint, is not a ground to quash the entire criminal proceeding.

8. Learned counsel for the opposite party No.2 draws the attention of this

Court to Section 15 of the Environment (Protection) Act, 1986, which reads as under :-

[15. Penalty for contravention of provisions of Act, rules, orders and directions.—

(1) Where any person contravenes or does not comply with any of the provisions of this Act or the rules made or orders or directions issued thereunder for which no penalty is provided, he shall be liable to penalty in respect of each such contravention which shall not be less than ten thousand rupees but which may extend to fifteen lakh rupees.

(2) Where any person continues contravention under sub-section (1), he shall be liable to additional penalty of ten thousand rupees for every day during which such contravention continues.

and submits that as has categorically been mentioned in the complaint that the petitioner being M/s. Hindustan Copper Limited having carried out mining operations of copper ores at Surda Mines without prior Environmental clearance, is guilty of the offence punishable under Section 15 the Environment (Protection) Act, 1986. It is then submitted that there is absolutely no illegality in the complaint; therefore, this Criminal Miscellaneous Petition, 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, so far as the contention of the learned counsel for the petitioner that the complaint has been filed by a person, without authority is concerned, in the considered opinion of this Court, the facts of this case is different from the facts of the case of P. Pramila & Others. vs. State of Karnataka & Another (supra). The reason being in the case of P. Pramila & Others. vs. State of Karnataka & Another (supra), under section 43 of the Air (Prevention and Control of Pollution) Act, 1981, there was a delegation to the Chairman of the Board and the Officer authorized in this behalf by the Board, was the Chairman of the Board. But in this case, as per notification of the Ministry of Environment, Forest and Climate Change, dated 14.03.2017, S.O. 804 (E) Clause 13 (3) inter alia Jharkhand State Pollution Control Board, has been authorized under Section 19 of the Environment (Protection) Act, 1986 to take action against project proponent, if they violate the provision of the Environment (Protection) Act, 1986. Unlike, in the case of P. Pramila & Others. vs. State of Karnataka & Another (supra), in this case there is no delegation to any officer of Jharkhand State Pollution Control Board. Obviously, Jharkhand State Pollution Control Board having no hands and legs of its own, it has to act through any of its officer. The Annexure 1 to the complaint shows that the Member Secretary, obviously, on behalf of the State Pollution Control Board, has directed the complainant to initiate the proceeding by filing the compliant. True it is, there is no reference of any resolution of the Board, in Annexure 1 to the complaint but Section 5 (2) (f) of Air (Prevention and Control of Pollution) Act, 1981, itself envisages that the Member Secretary of Jharkhand State Pollution Control Board, is a full time Member Secretary, and he

is also a member of the Board. At this stage, when the full time Member Secretary, being a member of Jharkhand State Pollution Control Board, on behalf of the Board has directed the complainant being the Regional Officer of Jharkhand State Pollution Control Board, to initiate and institute the complaint after the draft was received by Jharkhand State Pollution Control Board merely because there is no reference of the resolution of the Board, in such communication, in the considered opinion of this Court, the same will be a too technical a view to quash the entire criminal proceeding at this nascent stage. It is not a case that there is any delegation of the authority concerned to someone else, as was in the case of *P. Pramila & Others. vs. State of Karnataka & Another* (supra), where the Chairman of the Board who himself was delegated to power again delegated the power to the Regional Officer without any statutory sanction. But in this case, unlike the case of *P. Pramila & Others. vs. State of Karnataka & Another* (supra), no delegation of power was ever made to any particular officer of Jharkhand State Pollution Control Board. So, this Court is of the considered view that this is not a case of absence of authority for the complaint filed by the complainant rather it is a case where relevant materials could not be produced by the complainant to prove it beyond reasonable doubt that he was authorized on behalf of Jharkhand State Pollution Control Board to file complaint though there is specific averment that the complaint is filed on behalf of the Jharkhand State Pollution Control Board. Hence, in the considered opinion of this Court, keeping in view the settled principle of law that a legitimate prosecution ought not be stifled by the High Court in exercise of power vested upon it under Section 482 of Cr.P.C and that the petitioner can take such plea during the trial of the case as his defence, this Court is of the considered view that certainly this is not a case where the entire criminal proceeding is to be quashed.

10. So far as the contention of the petitioner that the petitioner- company was granted consent to operate orders by the Bihar State Pollution Control Board and upon reorganization of the State of Jharkhand by the Jharkhand State Pollution Control Board on regular basis is concerned, the same is a defence of the petitioner but in view of the specific averment in the complaint that the petitioner was carrying out mining operation of proper course without environmental clearance in violence of the provisions of Environment Protection Act, 1986 and in view of the settled principle of law that High Court, exercising the power under Section 482 of Cr.P.C., is not to enter into a roving enquiry to ascertain the veracity of the defence of the accused person, to quash a criminal proceeding, this Court is of the considered view that on this ground, the prayer of the petitioner to quash the entire criminal proceeding, is not fit to be allowed as the petitioner can take that plea during trial of the case.

11. In view of the discussions made above, this Court is of the considered opinion that there is no merit in this Criminal Miscellaneous Petition.

12. Accordingly, this Criminal Miscellaneous Petition, being without any merit, is dismissed.