
(2026) 01 JH CK 1732

In the Jharkhand High Court

Case No : Criminal Miscellaneous Petition No. 3804 Of 2025

Pritam Kumar Roy @ Pritam Rai @ Pritam Kumar

APPELLANT

Vs

State Of Jharkhand

RESPONDENT

Date of Decision : 07-01-2026

Acts Referred:

Environment (Protection) Act, 1986 — Section 5, 6, 15, 19

Mines and Minerals (Development and Regulation) Act, 1957 — Section 4, 22

Citation : (2026) 01 JH CK 1732

Hon'ble Judges : Anil Kumar Choudhary, J

Bench : Single Bench

Advocate : Amit Kr. Sinha, P.K. Chatterjee

Final Decision : Allowed

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 528 of the B.N.S.S., 2023 with the prayer to quash the entire criminal proceeding including the order dated 26.04.2025, passed by the learned Chief Judicial Magistrate, Hazaribagh in connection with Sadar P.S. Case No. 367 of 2016 corresponding to G.R. Case No. 807 of 2025.

3. At the outset, the learned counsel for the petitioners submits that the petitioners abandons all other prayers and confine their prayer only to quash the order taking cognizance dated 26.04.2025 in connection with Sadar P.S. Case No. 367 of 2016 corresponding to G.R. Case No. 807 of 2025 so far as it relates to the offence punishable under Section 5/6/15 of the Environment (Protection) Act, 1986.

4. The learned counsel for the petitioners submits that charge has not yet been framed in this case.

5. Drawing attention of this Court to Section 19 of the Environment (Protection) Act, 1986, it is submitted by the learned counsel for the petitioners that Section 19 of the said Act prohibits any court from taking cognizance of any offence under the said Act, except upon the complaint made by the Central Government or any authority or officer authorized on behalf of the Central Government, adjudicating officer or any officer authorized by him or any person who has given notice of not less than sixty days, in the manner prescribed, of the alleged offence.

6. Relying upon the Judgment of this Court in the case of Shashi Anand Sinha & Ors. Vs. The State of Jharkhand & Ors., reported in MANU/JH/1144/2025 wherein this Court relying upon the Judgment of the Hon'ble Supreme Court of India in the case of State (NCT of Delhi) Vs. Sanjay and allied cases, reported in 2014 INSC 602 para-68 of which reads as under:-

"68. There cannot be any dispute with regard to restrictions imposed under the MMDR Act and remedy provided therein. In any case, where there is a mining activity by any person in contravention of the provisions of Section 4 and other sections of the Act, the officer empowered and authorized under the Act shall exercise all the powers including making a complaint before the jurisdictional magistrate. It is also not in dispute that the Magistrate shall in such cases take cognizance on the basis of the complaint filed before it by a duly authorized officer. In case of breach and violation of Section 4 and other provisions of the Act, the police officer cannot insist Magistrate for taking cognizance under the Act on the basis of the record submitted by the police alleging contravention of the said Act. In other words, the prohibition contained in Section 22 of the Act against prosecution of a person except on a complaint made A by the officer is attracted only when such person sought to be prosecuted for contravention of Section 4 of the Act and not for any act or omission which constitute an offence under Indian Penal Code."

In respect of a provision similar to Section 19 of the Environment (Protection) Act, 1986, contained in Section 22 of the Mines and Minerals (Development and Regulation) Act held that a police officer cannot insist Magistrate for taking cognizance under the provisions of the Mines and Minerals (Development and Regulation) Act on the basis of the records submitted by police alleging contravention of the said Act. Hence, it is submitted that the impugned cognizance order dated 26.04.2025, passed by the learned Chief Judicial Magistrate, Hazaribagh in connection with Sadar P.S. Case No. 367 of 2016 corresponding to G.R. Case No.807 of 2025, so far as it relates to the offences punishable under the Environment (Protection) Act be quashed and set aside.

7. The learned Spl. P.P. on the other hand vehemently opposes the prayer as prayed for by the petitioners in this criminal miscellaneous petition and submits that this criminal miscellaneous petition being without any merit be dismissed.

8. Having heard the submissions made at the Bar and after going through the

materials available in the record, a plain reading of Section 19 of the Environment (Protection) Act, 1986 bars any court from taking cognizance of any offence punishable under the Provisions of the Environment (Protection) Act, 1986 except on a complaint made by a person or authorities mentioned therein.

9. As already indicated above in the foregoing paragraphs of the Judgment, it is profitable to refer to 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.”

10. In view of the ratio of the Judgment of the Hon’ble Supreme Court of India in the case of State (NCT of Delhi) Vs. Sanjay and allied cases (supra), this Court has no hesitation in holding that the learned Chief Judicial Magistrate, Hazaribagh has committed a grave illegality in taking cognizance of the offences punishable under Section 5/6/15 of the Environment (Protection) Act, 1986 on the basis of the report submitted by the police upon investigation of the case based on the First Information Report.

11. Hence, the order of cognizance dated 26.04.2025, passed by the learned Chief Judicial Magistrate, Hazaribagh in connection with Sadar P.S. Case No. 367 of 2016 corresponding to G.R. Case No. 807 of 2025, so far as it relates to the offences punishable under Section 5/6/15 of the Environment (Protection) Act, 1986 is quashed and set aside while maintaining the said order in respect of the other offences as mentioned in the said order.

12. This criminal miscellaneous petition is allowed to the aforesaid extent only.