



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 22ND DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE R. NATARAJ

**CRIMINAL PETITION NO. 1134 OF 2019 (482(Cr.PC) /
528(BNSS))**

BETWEEN:

MR. B.S. NAVAB
S/O LATE ABDUL SATTAR SAB
AGED ABOUT 71 YEARS,
AZAD NAGAR, HIRIYUR,
CHITRADURGA - 572 143.

...PETITIONER

(BY MISS/SMT. ANKITA PATIL, ADVOCATE FOR
SRI. R. KOTHWAL, ADVOCATE)

AND:

KARNATAKA STATE POLLUTION CONTROL BOARD
BANGALORE
REPRESENTED BY ITS
DEPUTY ENVIRONMENTAL OFFICER
PLOT NO.97,
ANTHARASANAHALI INDUSTRIAL AREA,
SIRA ROAD, LINGAPURA,
TUMKUR - 572 106.

...RESPONDENT

(BY SRI. A. MAHESH CHOUDHARY, ADVOCATE)

THIS CRL.P IS FILED UNDER SECTION 482 OF THE CODE OF
CRIMINAL PROCEDURE, 1973 PRAYING TO QUASH THE ENTIRE
PROCEEDINGS AGAINST THIS PETITIONER IN C.C.NO.708/2014 ON
FILE OF THE COURT OF PRINCIPAL CIVIL JUDGE AND JMFC,
CHIKKANAYAKANAHALLI FOR THE OFFENCE PUNISHABLE UNDER





SECTION 43 OF WATER (PREVENTION OF CONTROL OF POLLUTION)
ACT.

THIS PETITION, COMING ON FOR ADMISSION, THIS DAY,
ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE R. NATARAJ

ORAL ORDER

The petitioner has challenged the prosecution launched against him in C.C No.708/2014 pending on the file of the Principal Civil Judge and JMFC, Chikkanayanakanhalli for the offences punishable under Section 43 of the Water (Prevention and Control of Pollution) Act, 1974 (henceforth referred to as 'Act, 1974' for short).

2. (i) The respondent alleged that Hind Ore Mines operated by M/s. Balaji Produce Company Limited was granted a mining lease for the period 2003-2004 to carry out mining operations in Sy.Nos.12 and 13 of Gollarahalli Village and Sy.No.130 of Honnebagi Village, Chikkanayakanahalli Taluk, Tumakuru District, subject to a condition to extract iron ore of 5,000 metric tonnes per month i.e., 60,000 metric tonnes per annum.



(ii) It is claimed that consent for operation under the Act, 1974 was granted for the period 2004-05 with a condition to extract iron ore of 5,000 metric tonnes per month. Thereafter, consent for operation for the period 2005-2006 was also granted under the Act, 1974 again with a condition to extract iron ore of 5,000 metric tonnes per month. It is alleged that the accused extracted iron ore in excess of the permitted quantity during the years 2003-2004, 2004-2005 and 2005-2006, without obtaining prior consent of the Board and thereby violated Section 25 of the Act, 1974. Therefore, a show-cause notice was issued on 28.01.2005 under Section 33A of the Act, 1974, followed by another show cause notice dated 19.03.2005.

(iii) The accused was called for a personal hearing in the office of the Board, Bengaluru on 12.07.2004. The Chairman of the Karnataka State Pollution Control Board directed the accused not to increase the production beyond the permitted quantity of 60,000 metric tonnes per annum. Despite the above, the accused increased the production during the year 2004-2005. Thereafter, the accused was again called for a



personal hearing on 18.06.2005. The accused No.3 represented accused No.1 and they acknowledged before the Board that production was increased during the years 2003-2004 and 2004-2005. Even then, the Chairman of the Board directed the accused to confine the production to the consented capacity of 60,000 metric tonnes per annum. However, for the year 2005-2006 also the accused increased the production without obtaining prior consent of the Board. Consequently, the respondent-Board held that accused had violated Sections 25 and 44 of the Act, 1974 and hence filed a private complaint. The Trial Court after perusing the material placed along with the private complaint took cognizance of the offences and issued process.

(iv). The petitioner/accused No.3, being aggrieved by the issuance of process, has filed the present petition *inter alia* contending that he is not a partner of M/s. Balaji Produce Company Limited and has been wrongly arraigned as an accused. It is further contended that no material is produced along with the private complaint to show that petitioner/accused No.3 is a partner of M/s.Balaji Produce



Company Limited and therefore, the prosecution initiated against him is not justified. It is contended that the respondent has mechanically arraigned accused No.3 in the proceedings.

3. The learned counsel for the petitioner reiterated the above contentions and submits that there is nothing on record to show that the petitioner was the partner of M/s. Balaji Produce Company Limited.

4. (i) Per contra, the learned counsel for the respondent submits that under Section 47 of the Act, 1974, every person who is in charge of and responsible for the affairs of the company is liable to be prosecuted. He invited the attention of the Court to paragraph Nos.16, 17, 18 and 19 of the petition and contends that the petitioner has admitted that he is the authorized representative of M/s.Balaji Produce Company Limited. He therefore contends that the petitioner was in charge of the mining activities and as such, is liable to be prosecuted for the offences under Section 44 of the Act, 1974.

(ii) He also invited the attention of the Court to a proceedings held before the respondent-Board on 04.08.2005



where the petitioner had claimed that he is a partner of M/s. Balaji Produce Company Limited. He contends that the petitioner has, on more than one occasion, acknowledged that he is a partner of M/s. Balaji Produce Company Limited and hence is liable to be prosecuted. In support of his contention, he has relied upon the judgment of the Hon'ble Apex Court in the case of ***U.P. Pollution Control Board Vs. Messrs Modi Distillery and others - (1987) 3 SCC 684.***

5. I have considered the submissions of the learned counsel for the petitioner as well as learned counsel for the respondent.

6. Balaji Produce Company appears to be a partnership firm, which is evident from the deed of partnership dated 01.11.1998 and the firm comprises of Smt. Lalita Bhuwalka, Sri.Ravindra Kumar Bhuwalka and Sri.Abhishek Bhuwalka as partners. The petitioner is not a partner of the said firm and the respondent has not placed any material to indicate the basis on which it believed that the petitioner is a partner of the said firm.



7. Section 44 of the Act, 1974 provides for penalty for contravention of Section 25 of the Act, 1974 and reads as follows:

44. Penalty for contravention of section 25 or section 26.— *Whoever contravenes the provisions of section 25 or section 26 shall be punishable with imprisonment for a term which shall not be less than one year and six months but which may extend to six years and with fine.*

8. The contravention in question is by the partnership firm, namely, M/s.Balaji Produce Company Private Limited, constituted by its partners. Therefore, the partnership firm and its partners are liable to be prosecuted. Any authorization given by the firm to an employee or a non-employee for operating the mine does not *ipso facto* mean that such person is responsible for the contravention of the provisions of the Act, 1974.

9. If the petitioner has extracted iron ore in excess of the permitted quantity, he did so on the basis of the authorization by his principal, which in the present case is the partnership firm. Therefore, the principal of the petitioner is liable to be prosecuted as the extraction of iron ore is based on



the instructions given by the principal. There is no material placed on record by the respondent to show that the petitioner is a partner of the said firm and therefore was not liable to be presented for contravention of Section 25 of the Act, 1974.

10. In that view of the matter, prosecution of the petitioner by the respondent is liable to be set at nought.

11. Consequently, the petition is ***allowed***. The impugned prosecution of the petitioner in C.C.No.708/2014 pending trial before the Principal Civil Judge and JMFC, Chikknayakanahalli is quashed. However, the proceedings shall continue against other accused.

Sd/-
(R. NATARAJ)
JUDGE