IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.4423 of 2024

Mr. Jitendra Nath Patnaik* ..... *Petitioner

-versus-

State of Odisha (Vigilance)* ..... *Opposite Party

For Petitioner	…	Mr. Asok Mohanty, Senior Advocate M/s. Umesh Chandra Patnaik, S. Patnaik, M.R. Sahoo, S.M. Pattnaik
For Opposite Party	…	Mr. Niranjan Moharana, Standing Counsel for the Vigilance Department

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THE HON'BLE MR. JUSTICE ADITYA KUMAR MOHAPATRA

Date of hearing : 22.05.2026 :: Date of judgment : 06.08.2026

A.K. Mohapatra, J. The present CRLMC application is filed by the Petitioner, one Jitendra Nath Patnaik, under section 482 of the Cr.P.C, with a prayer to quash the F.I.R No.51 of 2009, registered on

18.11.2009, before the Vigilance P.S Balasore for alleged commission of offences punishable under Sections 13(2) read with 13(1)(d) of the Prevention of Corruption Act, 1988 (hereinafter "P.C Act"); Section 120-B of the IPC; Section 21 of the 'Mines and Minerals (Development and Regulation) Act, 1957' (hereinafter "M.M.D.R Act") and Section 3 of the 'Forest (Conservation) Act, 1980' (hereinafter "FCA"), along with the Chargesheet No.06 of 2013, filed on 26.03.2013 in V.G.R Case No.19 of 2011, which, as of now is pending before the Learned Additional District and Sessions Judge, Bargarh.

FACTUAL MATRIX OF THE CASE

2. The crux of the factual matrix forming the basis of the present controversy, is as follows; the father of the Petitioner, Late Bansidhar Patnaik ("the Original Lessee"), was granted a mining lease on 31.07.1959 by the Government of Odisha for extraction of Manganese Ore and Iron Ore over 260 hectares at Kalaparbat, Joda, Keonjhar, for periods of 20 and 30 years respectively. Upon surrender of the Manganese Ore lease in 1967, the leasehold area for Iron Ore stood reduced to 106.392 hectares, valid up to 31.07.1989. Concurrently, a partnership with the name and style of M/s B.D. Patnaik was constituted by the Original Lessee in 1969, to which the Petitioner was admitted in 1974 upon attaining majority. The partnership deed was periodically reconstituted, culminating in the Deed of Partnership dated 01.04.1995, under which the Original Lessee's five sons, including the Petitioner, became partners in equal share.

3. On 30.07.1988, twelve months prior to expiry of the lease, the Original Lessee applied for renewal ("the First Renewal Application"), which, upon amendment, was confined to 25.633 hectares comprising 7.810 hectares of non-forest land and 17.823 hectares of forest land requiring a De-Reservation Proposal ("DRP") under the FCA. The First Renewal Application remained un-adjudicated beyond the date of expiry of the lease. During such pendency, the Petitioner, in consonance with the original lessee and Mr.Rabindra Nath Patnaik, sought temporary/interim work permits in 1992, which were granted by the Director of Mines from time to time between November 1991 and December 1994, at Annexure-2 series, and a power of attorney dated 05.01.1994 was executed by the Original Lessee in favour of the Petitioner and his elder brother, Late Rabindra Nath Patnaik, to handle communication concerning the mining lease.

4. Upon the demise of the Original Lessee on 05.11.1995, Mr. Rabindra Nath Patnaik is stated to have handled the primary responsibilities of the firm and the Petitioner is stated to have been in charge of correspondence with the Government authorities. Nevertheless, all the five partners/brothers received profits from the firm. Subsequently, the Ministry of Environment and Forest ("MoEF") granted the DRP, over 17.823 hectares on 03.09.1998, for a duration of ten years or co-terminous with the lease period. Eventually, on account of advancing age, Mr. Rabindra Nath Patnaik executed a power of attorney dated 09.01.2006 in favour of his son, Saroj Kumar Patnaik. Upon expiry of the lease period on 31.07.2009, the partners surrendered the mining lease.

5. On 17.11.2009, a written complaint was lodged by the Deputy Superintendent of Police, Vigilance Cell, Cuttack, at Balasore Police Station, pursuant to which F.I.R. No. 51 of 2009 was registered on 18.11.2009 against certain named mining and forest officials and "the Managing Partners of M/s B.D. Patnaik", alleging commission of offences under Section 13(2) read with 13(1)(d) of the PC Act; Section 120-B of the IPC; Section 21 of the MMDR Act; and Section 3 of the FCA. Thereafter, on 26.03.2013, a Chargesheet was filed in the aforesaid offences and Section 58 of the MCD Rules, arraigning the Petitioner, by name, as a Managing Partner of the firm, together with fourteen other mining officials. The matter was then taken up by the learned Special Judge (Vigilance), Keonjhar, renumbered as V.G.R. Case No. 19 of 2011 corresponding to T.R. No.07 of 2013, and cognizance of the alleged offences was taken on 11.06.2013.

6. In due course, the Petitioner filed an application for discharge under Section 239 of the Cr.P.C, which was dismissed by the learned Special Judge (Vigilance), Keonjhar, by order dated 19.07.2019, holding him liable, prima facie, for continuing illegal mining in connivance with the co-accused officials, occasioning loss to the State exchequer to the tune of Rs.1,30,39,13,397/-. The revision preferred against such dismissal, bearing CRLREV No.534 of 2019, along with connected matters was dismissed by a Coordinate Bench of this Court vide judgment dated 06.08.2020. Assailing the said judgment, the Petitioner approached the Hon'ble Supreme Court in SLP (Crl.) No. 2278 of 2021, wherein interim protection was granted on 15.03.2021 directing that no coercive steps be taken against him. The Special Leave Petition was ultimately dismissed on 15.10.2024, affirming the judgment of this Court.

7. It is also noticed that while this was the position, the Director of Enforcement registered ECIR No.BBZO/13/2021, on 19.03.2021, against the Petitioner under the Prevention of Money Laundering Act, 2002 ("PMLA"), culminating in a Prosecution Complaint Case No.20 of 2023 dated 30.11.2023 before the Special Judge, Khurda; the said proceedings, being independent of the Chargesheet impugned herein, do not form the subject-matter of, and have not been examined in, the present application. It is in the aforesaid backdrop that the present application under Section 482 Cr.P.C has been filed with the prayer as mentioned hereinabove.

CONTENTIONS OF THE PETITIONER

8. Heard Mr. Asok Mohanty, learned senior counsel appearing on behalf of the Petitioner. The learned senior counsel, at the very outset, has submitted that the impugned FIR does not, on its face, name the Petitioner as an accused or suspected person. Rather, it refers only to three named mining/forest officials and M/s B.D. Patnaik Mines and others. It was contended that the Petitioner was implicated for the first time only during the subsequent investigation, and that the Opposite Party does not have any material to show any active involvement of the Petitioner in the present crime. The learned senior counsel submitted that since the firm has five partners with equal shareholding, the isolation of the Petitioner alone, some four years later at the chargesheet stage, without any allegation against the remaining partners, clearly betrays the mala fides of the Opposite Party. It was stated that even though the Opposite Parties have levied allegations of illegal mining against the firm, they have failed to attribute any specific role to the present Petitioner. Given the delay of four years in filing the Chargesheet, it can very well be inferred that the implication of the Petitioner in the present case is merely an afterthought without any logical basis.

9. In fact, the learned senior counsel has pointed out to this Court that the role of the present Petitioner was limited to mere correspondence with the Government and that the management of the day-to-day affairs of the firm, including operation of its bank account and signing of statutory returns, was discharged throughout by Mr. Rabindra Nath Patnaik and, after his demise, by Mr. Saroj Kumar Patnaik. In corroboration of his contention, the learned senior counsel has referred to the letter dated 05.07.2022 of the Director of Mines, at Annexure-13 and the letter dated 03.08.2022 of the State Bank of India, Joda Branch. It was contended that all the documents relating to the management of the firm were signed by either Mr. R. N. Patnaik, or Mr. Saroj Kumar Patnaik, and that the Petitioner's role in the firm was confined to correspondence with the State authorities on instructions of the Managing Partner. Learned senior counsel has stated that there is no material on record which demonstrates the Petitioner's personal and active involvement in the alleged illegal mining.

10. Next, the learned senior counsel stated that hypothetically, and without admitting such, even if it is assumed that the Petitioner was responsible for the management of affairs of the firm, since the operations of the firm were continuing pursuant to the extension of operation granted from time to time, it cannot be said that any illegal mining activity was carried out by the firm, and, by extension, the Petitioner. It was contended that the mining operations conducted pending adjudication of the First Renewal Application were carried out under interim work permits periodically granted and extended by the Director of Mines, and the requisite DRP was ultimately granted on 03.09.1998. Similarly, learned senior counsel submitted that it is the Opposite Party's acknowledgement that the firm had applied for a De-Reservation Proposal, pursuant to which the MoEF, vide letter dated 03.09.1998, permitted the firm to carry on mining operation in the forest area for a period of 10 years, which was co-terminous with the permission under the MMDR Act. As such, the mining operations cannot, in any way, be characterised as illegal mining.

11. The learned senior counsel further submitted that the Petitioner has already been punished, along with the other partners, following the decision in W.P.(C) No.114 of 2014 (***Common Cause v. Union of India and Ors.***), in the shape of a fine amounting to Rs.8,96,01,825/- for operating mines without a valid DRP, under Section 2 of the FCA. Therefore, the Petitioner cannot be subjected to double jeopardy. A No-Due certificate has also been issued in favour of the Petitioner and the firm regarding full payment of the fine amount. Further, it was stated that an independent Central Empowered Committee ("CEC") was appointed by the Hon'ble Supreme Court in the aforesaid writ petition, which, after conducting a detailed fact finding exercise into the allegations of illegal mining in the state of Odisha, did not return any findings with regard to the involvement of the firm in any illegal mining operations. Accordingly, the learned senior counsel submitted that since a penalty imposed on the Petitioner has already been discharged, a parallel criminal prosecution alleging illegal mining on the self-same facts is, therefore, said to be impermissible.

12. Referring to the scheme of the MMDR Act, specifically Section 22 thereof, the learned senior counsel contended that cognizance of any offence punishable under the MMDR Act can be taken only when the complaint with respect to such offences is made in writing by a person authorised on behalf of the State or the Central Government. It is the learned counsel's contention that the complaint dated 17.11.2009, on which the present FIR dated 18.11.2009 came to be registered, was lodged by the DSP Vigilance, who was not, at that point in time, an authorised person. Likewise, the learned senior counsel referred to Rule 2(1)(b) of the OMPTS Rules, 2007 and Schedule-I thereof, and submitted that fifteen mining officers have been designated as competent authority for various jurisdictions. Similarly, referring to the Notification dated 19.12.2009 of the Department of Steel and Mines, Government of Odisha, at Annexure-14, the learned senior counsel pointed out that the Government, in exercise of its powers under Sections 22 and 23B of the MMDR Act, has authorised the Director of Mines and the Joint Directors to exercise the powers of seizure/detection/confiscation in connection with illegal mining activities in the state.

13. In addition to the aforesaid contention, the learned senior counsel contended that even if it is assumed, but not admitted, that the

DSP Vigilance was authorised to file the instant complaint, it would be bad in law since the Notification dated 14.01.2010 of the Home Department, at Annexure-15, which was promulgated after the abovementioned notification dated 19.12.2009, clearly states that any investigation/enquiry initiated under the MMDR Act, must be preceded by an approval or sanction from the Competent Authority. The notification also specifies that officers of and above the rank of Inspector of Police under the Director of Vigilance, Odisha are empowered to conduct investigation/enquiry and to take legal actions under the provisions of the IPC, other relevant Acts and Rules pertaining to illegal mining in the State. It was stated that in the present case, the Opposite Parties have obtained no approval/sanction of the competent authority and no authorisation for institution of the Complaint or to conduct inquiry/investigation under the corresponding Act.

14. In order to substantiate his claims, the learned senior counsel for the Petitioner has placed reliance on ***Balasubramanian Prabhakaran v. State of Odisha (Vigilance)***, reported in ***2021 SCC OnLine Ori 147***; ***Nandalal Rungta v. State of Odisha (Vigilance)***, reported in ***2022 SCC OnLine Ori 744***; ***Surendranath Agarwal v. State of Odisha***, reported in ***MANU/OR/0261/2009; 2026 (I) OLR***

301; and ***State (NCT of Delhi) v. Sanjay***, reported in ***(2014) 9 SCC 772***, for the proposition that cognizance of an offence under the MMDR Act cannot rest upon a complaint by a person not shown to be authorised, and that the consequent proceedings are liable to be set aside. Additionally, the learned senior counsel has stated that in view of the observation in ***Anand Kumar Mohatta v. State (NCT of Delhi)***, reported in ***(2019) 11 SCC 706***, a petition for quashing of an FIR remains maintainable notwithstanding the subsequent filing of a chargesheet.

15. Finally, the learned senior counsel for the Petitioner contended before this Court that the F.I.R in the present case is politically motivated and borne out of vengeance, and does not reveal any material to establish the allegations against the Petitioner. As such, the attending circumstances of the present case, i.e. the timing of the FIR within months of the Petitioner's rejection of a political overture, the omission of his name from the FIR, and his belated implication in the Chargesheet without specific attribution of role, bring the case squarely within the 1st, 2nd, 6th and 7th grounds enumerated by the Hon'ble Supreme Court in ***State of Haryana v. Bhajan Lal***, reported in ***1992 AIR 604***, at paragraph 102, warranting the exercise of inherent powers by this Court. The learned senior counsel contended that the conduct of the Opposite Parties is motivated by mala fides since the Petitioner has been isolated and no proceeding has been initiated against any other partners of the firm. Criminal proceedings should not be used to harass individuals. In such view of the matter, it was stated that the impugned F.I.R No.51 of 2009 dated 18.11.2009, at Annexure-1 and the Chargesheet dated 26.03.2013, at Annexure-8, be quashed.

CONTENTIONS OF THE OPPOSITE PARTIES

16. Heard Mr. N. Maharana, learned Additional Standing Counsel appearing on behalf of the Opposite Party-Vigilance Department. The prosecution case, in substance, is that illegal mining and theft of minerals occasioned loss to the State exchequer of the order of Rs.130.39 crores, together with equivalent pecuniary advantage conferred upon the Petitioner who has acted in collusion with the mining officials in violation of the provisions under the PC Act, the IPC, the MMDR Act, and the FCA. It was contended by the learned opposing counsel that the Petitioner being a private person and the rest of the accused persons being government officials, no sanction/prior permission was required for lodging an F.I.R or initiating an investigation. Further, referring to the Notification dated 14.01.2010, learned ASC submitted that it specifically empowers officers of and above the rank of Inspector of Police in the Vigilance Directorate, Odisha, to investigate and take legal action, including filing of Chargesheet, pertaining to illegal mining, subject to sanction of the competent authority as and when required.

17. Equally, the learned counsel for the State-Vigilance Department, drawing attention to Section 22 of the MMDR Act, stated that a bar under the Act is on the "lodging of complaint" for the purpose of taking cognizance and not upon "filing of the chargesheet". It was stated that the F.I.R in the present case has been registered under Section 156 of the Cr.P.C. Sub-sections (1) and (2) thereof empower "any officer-in-charge of a police station" to investigate a cognizable offence without a Magistrate's order and, bar any challenge to the investigation on the ground that the officer was not empowered to investigate, the Vigilance Police were competent to register the FIR and initiate investigation in the matter. It was contended that by the time the Chargesheet was filed (26.03.2013) and the cognizance was taken (11.06.2013), the concerned Vigilance officer stood duly empowered under the Notification dated 14.01.2010, and the Chargesheet was filed only after obtaining sanction for prosecution from the State Government. Such sanction, being accorded by a higher authority, cannot be equated to absence of sanction. Moreover, since the F.I.R was registered under Section 154 Cr.P.C (and not Section 200 Cr.P.C), and the Petitioner never having assailed the order of cognizance at the initial stage, the authority designated to investigate and file chargesheet, i.e. the Vigilance Department, cannot be said to have acted without jurisdiction.

18. Next, the learned counsel for the Opposite Party-Vigilance Department submitted that identical contentions were raised by the Petitioner in his discharge application filed under Section 239 of the Cr.P.C (which was dismissed on 19.07.2019) and in the revision bearing CRLREV No.534 of 2019 along with other allied matters (dismissed vide judgment dated 06.08.2020). In the aforesaid dismissal orders, relying on Notification dated 14.01.2010, this Court had specifically repelled the contention of the Petitioner that the Vigilance Police were not the authorised person. Learned counsel further stated that the aforesaid judgment passed in the CRLREV No.534 of 2019 has been affirmed by the Hon'ble Supreme Court in SLP (Crl.) No.2278 of 2021 by keeping open the issue regarding the competency of the officer lodging complaint, which is to be decided at the stage of trial. Moreover, the Apex Court has also not remitted the matter to this Court either for adjudication or reconsideration. As such, the learned counsel for the Vigilance Department contended that the same contention, which has been settled, cannot be re-agitated in a subsequent application under Section 482 Cr.P.C.

19. Notably, the learned counsel for the State-Vigilance Department argued before this Court that a second or subsequent petition under Section 482 Cr.P.C is not maintainable on grounds available at the time of filing/decision of the first quashing petition, absent a demonstrated change of circumstances, as held in ***M.C. Ravikumar v. D.S. Velmurugan***, bearing ***2025 INSC 888*** (paragraphs 11 to 15). In addition, relying upon the pronouncements of the Hon'ble Apex Court in ***State of Gujarat v. Mohanlal Jitamalji Porwal***, reported in ***AIR 1987 SC 1321***; ***H.N. Rishbud v. State of Delhi***, reported in ***AIR 1955 SC 196***; ***R.A.H. Siguram v. Sankar Gowda***, reported in ***(2017) 16 SCC 126***; ***Union of India v. T. Nathamuni***, reported in ***(2014) 16 SCC 285***; ***State of M.P. v. Virender Kumar Tripathi***, reported in ***(2009) 15 SCC 533***; ***Ashok Tshering Bhutia v. State of Sikkim***, reported in ***(2011) 4 SCC 402***; and ***NCT of Delhi v. Sanjay***, reported in ***(2014) 9 SCC 772***, the learned counsel submitted that even assuming, without admitting, that there was a formal defect or irregularity touching upon the authority of the complainant, such defect does not vitiate the proceeding where a prima facie case is otherwise made out and, has no direct bearing on the competence of the Court to take cognizance or proceed with the trial in the matter.

20. So far as the judgements relied upon by the Petitioner are concerned, the learned counsel for the State-Vigilance Department attempted to distinguish such judgements from the present case on the ground that in ***Balasubramanian Prabhakaran*** (*supra*) the proceeding was quashed on the distinct ground of vicarious liability of a Managing Director without arraigning the company. In ***Nandalal Rungta*** (*supra*), the coordinate Bench itself rejected the contention that Vigilance officials were not "persons authorised", quashing having been founded on an unrelated Multi-Disciplinary Committee report exonerating the petitioner therein of illegal mining. Similarly, it was stated that in ***Surendranath Agarwal*** (*supra*), the investigating officer was an ordinary police officer, not a Vigilance officer covered by the Notification dated 14.01.2010, a material distinction from the present case.

21. In view of the aforesaid contentions, the learned counsel appearing for the State-Vigilance Department submitted that the present CRLMC petition, being devoid of merit, is liable to be dismissed forthwith.

ANALYSIS OF THE COURT

22. Heard the learned senior counsel for the Petitioner and the learned Additional Standing Counsel for the Vigilance Department, perused the F.I.R, the Chargesheet, the written submissions by the parties and other documents available on record. The Petitioner, by filing the present CRLMC petition, has impugned the F.I.R and the subsequent chargesheet under the abovementioned offences on the primary grounds that the complaint in the present case, which gave rise to the F.I.R, was made by an unauthorised person, that the mining operations by the Petitioner's firm flagged as illegal, were actually carried out with the approval of the mining department, that the present criminal proceeding against the Petitioner is without any material basis and attracts the bar of double jeopardy in light of the earlier penalization under the FCA, and certain other grounds.

23. In order to fairly adjudicate the validity of the prayer made by the Petitioner, this Court is required to determine the following issues: *Firstly*, whether F.I.R. No.51 of 2009 and the consequential Chargesheet dated 26.03.2013 are vitiated for want of a complaint by a "person authorised" within the meaning of Section 22 of the MMDR Act, having regard to the fact that the Notifications dated 19.12.2009 and 14.01.2010 relied upon by the Opposite Party post-date the complaint dated 17.11.2009 and, whether, assuming any infirmity in the authorisation to lodge the complaint, such infirmity vitiates the taking of cognizance and the consequent trial, having regard to the settled principle that defects in investigation do not, without more, affect the competence of the Court; *Secondly*, whether the present application, being a subsequent attempt to press a contention already addressed by a coordinate Bench of this Court in its judgment dated 06.08.2020 (later affirmed by the Hon'ble Supreme Court), is barred by the principle against successive petitions under Section 482 Cr.P.C., or is saved by the liberty expressly reserved by the Hon'ble Supreme Court in its order dated 15.10.2024; *Thirdly*, whether the material on record discloses a prima facie case against the Petitioner personally, having regard to his role as a partner of the firm, so as to attract the *Bhajan Lal* parameters; and *Fourthly*, whether the penalty already imposed and discharged under the FCA operates as a bar to continuance of the present prosecution.

24. Before proceeding any further, it is apposite to establish that so far as the quashing of criminal cases is concerned, the fundamental principles governing this Court's exercise of its inherent powers under section 482 Cr.P.C are now well settled via ***State of Haryana v. Ch. Bhajan Lal***, reported in ***1992 Supp (1) SCC 335***, wherein the Hon'ble

Supreme Court has summarised the principles governing the quashing of FIR/ complaints/ criminal cases in paragraph 102, which have been reiterated recently in ***B.N. John v. State of U.P.***, reported in ***2025 SCC OnLine SC 7*** and in ***Ajay Malik v. State of Uttarakhand***, reported in ***2025 SCC OnLine SC 185*** (specifically in paragraphs 8 and 9). In the same vein, in ***Punit Beriwala v. State (NCT of Delhi)***, reported in ***2025 SCC OnLine SC 983***, the Hon'ble Supreme Court, in paragraph 29, has laid down that the High Court, while exercising its inherent jurisdiction under section 482 Cr.P.C, has to take the allegations in the FIR at face value and such powers must be exercised only in exceptional cases where non-interference would lead to miscarriage of justice. Additionally, while exercising the inherent powers under Section 482 Cr.P.C, it must be borne in mind that no mini-trial is to be conducted. Instead, the High Court is required to restrict its inquiry to the allegations made in the complaint or FIR, and ascertain whether such allegations, if accepted as true on their face, constitute a prima facie offence (see ***Abhishek Singh v. Ajay Kumar & Ors.***, bearing ***2025 INSC 807*** and ***CBI v. Aryan Singh,*** reported in ***2023 SCC OnLine SC 379***). At this stage, a meticulous analysis of the factum of taking cognizance of an offence by the Magistrate is neither called for, nor is it permissible to undertake appreciation of evidence [see paragraph 13 of ***Dhruvaram Murlidhar Sonar v. State of Maharashtra***, reported in ***(2019) 18 SCC 191***].

25. Returning to the facts of the present case, specifically Section 22 of the MMDR Act, quoted hereinbelow, there is a clear bar to the effect that no court shall take cognizance of any offence punishable under the Act or any allied rules except upon a written complaint by a person authorised in this behalf by the Central or State Government. It is not disputed that the written complaint dated 17.11.2009, on which the impugned F.I.R. No.51 of 2009 was registered the following day, predates both the Notification dated 19.12.2009 (declaring certain officers, not including the DSP Vigilance, as "competent authority" under Rule 2(1)(b) of the OMPTS Rules, 2007) and the Notification dated 14.01.2010 (empowering Vigilance officers of and above the rank of Inspector to investigate and take legal action pertaining to illegal mining, subject to sanction of the competent authority as and when required). It is also clear that neither Notification purports to operate retrospectively.

> "***22. Cognizance of offences.***— *No court shall take cognizance of any offence punishable under this Act or any rules made thereunder except upon complaint in writing made by a person authorised in this behalf by the Central Government or the State Government.*"

26. Be that as it may, this Court is unable to accept, without qualification, the submission of the Petitioner that this infirmity, without more, vitiates the F.I.R, the Chargesheet and the entire proceeding *ab initio*. The bar under Section 22 operates upon the taking of cognizance, not upon registration of an FIR or conduct of investigation. Cognizance in the present matter was taken on 11.06.2013, well over three years after the Notification dated 14.01.2010 came into force, and after the Chargesheet dated 26.03.2013 had been filed following sanction for prosecution obtained from the State Government. The question, therefore, is not whether the Vigilance Department possessed authority *in vacuo* at the moment of the original complaint, but whether the authority possessed at the point of cognizance suffices to sustain the proceeding, notwithstanding that the FIR traces its origin to a complaint lodged before the enabling Notifications.

27. The precise question as to whether a defect touching the authority of the complainant/investigating agency at the threshold vitiates cognizance validly taken thereafter, stands substantially answered in the pronouncement of the Apex Court in ***H.N. Rishbud v. State of Delhi***, reported in ***AIR 1955 SC 196***, wherein it was held that a defect or illegality in investigation, however serious, has no direct bearing on the competency of the Court to take cognizance or on the procedure relating to trial. This principle has been consistently reiterated in ***State of M.P.* v. *Ramesh C. Sharma***, reported in ***(2005) 12 SCC 628*** and ***State of M.P.* v. *Virender Kumar Tripathi***, reported in ***(2009) 15 SCC 533***, along with the decision relied on by the Opposite Parties in ***Ashok Tshering Bhutia v. State of Sikkim***, reported in ***(2011) 4 SCC 402***. At paragraph 20 of ***Ashok Tshering Bhutia*** (*supra*), the Hon'ble Apex Court has clarified that when cognizance has been taken in a case, and the case has proceeded to termination, unless a miscarriage of justice is shown to have been caused, the invalidity of the preceding investigation does not vitiate the result. Moreover, it is worth recalling that a mere error/omission/irregularity in sanction is not to be considered fatal unless such error/omission/irregularity has occasioned a failure of justice. Once valid cognizance has been taken by the Court, with jurisdiction to do so under the Cr.P.C, any presumed irregularity/invalidity of the police report would not be considered the foundation of jurisdiction of the Court to take cognizance, and cannot vitiate the same [reference in this regard may be had to ***Kalpnath Rai v. State***, reported in ***(1997) 8 SCC 732***; ***State of Orissa* v. *Mrutunjaya***

Panda, reported in ***(1998) 2 SCC 414***; ***Shankerbhai Laljibhai Rot* v. *State of Gujarat***, reported in ***(2004) 13 SCC 487***].

28. These authorities, read together, indicate that the question of whether the DSP Vigilance was, on 17.11.2009, a "person authorised" is not, without a further demonstration of resultant miscarriage of justice, a ground sufficient in itself to quash the present F.I.R and Chargesheet at the threshold under Section 482 Cr.P.C, more particularly where, by the time of cognizance, the Vigilance Department stood conclusively vested with authority under the Notification dated 14.01.2010, and sanction for prosecution had been obtained from the State Government prior to filing of the Chargesheet (which, it is pertinent to mention, is a disputed question of fact, since both the Petitioner and the Prosecution have taken opposite stance as to whether a sanction/approval was actually obtained).

29. Having said that, this Court is not unmindful of the countervailing authorities relied upon by the Petitioner [***Balasubramanian Prabhakaran v. State of Odisha (Vigilance)***, reported in ***2021 SCC OnLine Ori 147***; ***Nandalal Rungta v. State of Odisha (Vigilance)***, reported in ***2022 SCC OnLine Ori 744***; and ***Surendranath Agarwal v. State of Odisha***, reported in MANU/OR/0261/2009], each concerned, in some measure, with authorisation under Section 22 of the MMDR Act. On examination, however, the submission of the Opposite Party that these decisions are distinguishable merits acceptance. In ***Nandalal Rungta*** (*supra*), the coordinate Bench itself repelled the identical contention, holding it "unacceptable" in para 23 that Vigilance officials were not "persons authorised", the quashing therein resting on the independent ground that the Multi-Disciplinary Committee report found no violation attributable to the Petitioner therein. Similarly, in ***Surendranath Agarwal*** (*supra*), the investigation had been conducted by an ordinary police officer rather than a Vigilance officer covered by the Notification dated 14.01.2010, a material distinction, since the present case concerns the Vigilance Department specifically empowered under that Notification, the objection here going only to the date of the original complaint, not to the Department's want of power altogether. The first issue is, therefore, answered accordingly. So far as ***Balasubramanian Prabhakaran*** (*supra*) itself is concerned, that decision is equally distinguishable, inasmuch as, the defect found therein was a total absence of any written complaint under Section 22 of the MMDR Act, the prosecution having rested solely on a police Chargesheet. In the present case, a complaint was in fact lodged, and only the complainant's authorisation on that date, a curable infirmity not a jurisdictional void, is disputed.

30. Next, the submission of the Opposite Party touching the maintainability of a second or successive Section 482 Cr.P.C application assumes considerable significance. It is evident from the record that the precise contention now pressed, that the DSP Vigilance lacked authority to lodge the complaint under Section 22 of the MMDR Act, was raised by the Petitioner in the discharge application under Section 239 Cr.P.C, rejected by order dated 19.07.2019, and was again pressed in CRLREV No.534 of 2019, where this Court in its judgment dated 06.08.2020 (at paragraphs 15-16 thereof), expressly considered and rejected the contention, holding that the Notification dated 14.01.2010 conferred the requisite authority upon the Vigilance Police. The principle enunciated in ***M.C. Ravikumar v. D.S. Velmurugan***, reported in ***2025 INSC 888***, and contended by the Opposite Parties, that a second quashing petition under Section 482 Cr.P.C raising grounds available at the time of the first quashing proceeding is impermissible unless there is a demonstrated change of circumstances, would ordinarily weigh heavily against entertaining the present CRLMC petition on this very ground.

31. However, the aforesaid principle must yield to the specific liberty reserved by the Hon'ble Supreme Court in its order dated 15.10.2024 dismissing SLP (Crl.) No. 2278 of 2021, whereby it was clarified that the contentions raised by the Petitioner/Accused with regard to the competence of the officer(s) lodging complaint, are kept open. This Court is of the considered view that the said clarification constitutes a specific and deliberate carving out by the Court of last resort, of this precise issue from the otherwise concluded findings recorded in the judgment dated 06.08.2020, thereby permitting the Petitioner to press the point afresh notwithstanding the ordinary bar against re-agitation. Ergo, the question that consequently arises is not whether the Petitioner may raise the contention at all, the Supreme Court's order settles that he may, but before which forum and at what stage does such contention properly fall to be determined.

32. In this regard, this Court is of the considered view that the challenge mounted by the Petitioner raises questions concerning the validity of the sanction, authorisation and investigation which cannot be adjudicated in isolation from the disputed factual matrix giving rise to them, i.e. the precise sequence and interplay between the date of the written complaint and the date of registration of the FIR (17.11.2009 and 18.11.2009 respectively); the dates of the enabling Notifications

(19.12.2009 and 14.01.2010) and their impact on the facts of the present case; the extent of surface right permissions and mining lease granted, both temporal and territorial; the extent of validity of the diversion proposal granted by the MoEF, duration-wise and territory-wise; and other similar factual disputes. The aforesaid controversies, which are overwhelmingly factual in nature, are more appropriately examined at the stage of trial, where the attending facts and circumstances may be established fully through evidence from both sides, rather than being conclusively determined on affidavits and annexures at the threshold while adjudicating an application under Section 482 Cr.P.C. The liberty reserved by the Hon'ble Supreme Court is, accordingly, more appropriately given effect to by directing that the contention be urged before, and adjudicated by, the learned trial Court, rather than by quashing the proceeding altogether at this stage. The second issue is answered accordingly.

33. So far as it concerns the third issue and the contention of the Petitioner that his implication was arbitrary, belated and without specific attribution of role unto him, this Court notes that the Chargesheet dated 26.03.2013 does arraign the Petitioner by name as a managing partner of the firm, and the order dated 19.07.2019 dismissing the discharge application, at Annecxure-10, records a prima facie finding of his complicity, along with the co-accused, in continuing mining operations without requisite renewal, occasioning loss to the State exchequer. The aforesaid finding has been affirmed in revision on 06.08.2020, and the Special Leave Petition assailing the same has been dismissed. While the Petitioner's submissions, that the management of the firm's affairs vested substantially in Mr. Rabindra Nath Patnaik and subsequently in Mr. Saroj Kumar Patnaik, and that his own role was confined to mere correspondence with the Government, are not without force and may bear materially upon his culpability, the assessment of the precise extent of his involvement as a Partner, and the applicability of Section 23 of the MMDR Act (which extends liability for an offence by a "company", defined to include a firm, to persons in charge of and responsible for its conduct, subject to the defence of absence of knowledge or due diligence) necessarily involve appreciation of evidence more appropriately undertaken at trial.

34. Moreover, the categories enumerated in ***State of Haryana v. Bhajan Lal***, reported in ***1992 AIR 604***, at paragraph 102 (a) to (c), permit quashing only where the allegations taken at face value do not disclose commission of an offence. At present, that is not, on the material before this Court, demonstrably the position. The Petitioner standing named as a partner of a firm alleged to have conducted mining operations beyond the terms of its permits, the question of his personal knowledge and diligence remains a matter for evidence, best resolved at trial. As such, the 1st, 2nd, 6th and 7th grounds in para 102 of ***Bhajan Lal*** (*supra*) relied upon by the Petitioner, do not seem to support his overall stance since the present case is not one where the allegations in the FIR fail to disclose a prima facie offence against the Petitioner or a cognizable offence altogether (1st and 2nd ground). Equally, there is no express statutory embargo against his prosecution, nor is there any material to suggest that the proceedings are actuated by manifest mala fides so as to render them legally unsustainable or productive of a failure of justice (6th and 7th ground).

35. As to the allegation that the F.I.R was motivated by political animosity and mala fides, while the timing of the complaint, i.e. shortly after the Petitioner's electoral success and his stated rejection of a political overture, is a circumstance he is entitled to place before the trial Court, mala fides of an informant does not, without more, ordinarily justify quashing at the threshold where the material otherwise discloses commission of a cognizable offence. It is well settled that even a person actuated by malice may set the law in motion, and the truth or otherwise of the allegations remains a matter for trial. Moreover, a criminal prosecution that is otherwise justifiable and based on adequate evidence will not be vitiated on account of political vendetta or mala fides of the complainant/informant [reference may be had to ***Sheonandan Paswan v. State of Bihar***, reported in ***(1987) 1 SCC 288***; ***State of Bihar v. J.A.C. Saldanha***, reported in ***(1980) 1 SCC 554***; ***State of Bihar v. P.P. Sharma***, reported in ***1992 Supp (1) SCC 222***, specifically paragraphs 22 and 23; and para 9 of ***State of Punjab v. Gurdial Singh***, reported in ***(1980) 2 SCC 471***]. The adequacy of the evidence yet to be laid and the justifiability of the prosecution, in the considered view of this Court, are best tested at the stage of trial, upon contest between the parties.

36. Even in ***Bhajan Lal*** (*supra*), paragraph 102 (g) of which has been relied upon by the Petitioner, the Hon'ble Apex Court, in paragraph 103, has sounded a note of caution that the High Court must exercise its power of quashing only in the rarest of rare cases and ought not to embark on an enquiry into the reliability or genuineness or otherwise of the allegations made in the F.I.R. In fact, the Hon'ble Supreme Court has also observed, towards the end of paragraph 108, that when faced with only allegations and recriminations but no evidence thereto, no finding on the question of malafides could be rendered at that stage. Even if it is assumed, hypothetically, that the complaint was rife with personal animosity, that alone cannot be a ground to discard a serious allegation. This exercise, i.e. testing the veracity of the allegations and the strength of the prosecution claim vis-à-vis the Petitioner's stance, is best carried out against the touchstone of evidence led by both sides, at the stage of trial, before a trial Court. The third issue is answered accordingly.

37. Another facet of the controversy is the plea that the Petitioner cannot be prosecuted a second time, having already discharged a compensatory sum pursuant to the judgment dated 02.08.2017 in ***Common Cause v. Union of India and Ors.***, bearing ***W.P.(C) No.114 of 2014***. This plea does not, in the considered view of this Court, squarely attract the doctrine against double jeopardy as ordinarily understood. The protection under Article 20(2) of the Constitution, and the cognate bar under Section 300 of the Cr.P.C, presupposes a prior prosecution before a Court or judicial tribunal culminating in punishment for the same offence. On the material presently on record, neither requirement stands satisfied. As held in ***State of Bombay v. S.L. Apte***, reported in ***AIR 1961 SC 578***, the constitutional protection is attracted only where the offences in the two proceedings are identical in their legal ingredients, and not merely because they arise from the same factual matrix. Tested against these principles, the compensatory sum of Rs. 8,96,01,825/- paid pursuant to the proceedings before the Central Empowered Committee was restitutive in character, intended to address the civil consequences of the failure to obtain the requisite forest clearance, and cannot be equated with a criminal punishment so as to attract the constitutional or statutory bar against a subsequent prosecution.

38. The proceedings in ***Common Cause*** (*supra*) were instituted in the exercise of the Supreme Court's writ jurisdiction to examine widespread regulatory violations relating to mining operations and to determine the appropriate civil, restitutive and regulatory consequences flowing therefrom. They neither constituted a criminal prosecution nor culminated in a conviction or acquittal for any offence. The compensatory amount directed to be paid pursuant to those proceedings was therefore a civil consequence of regulatory violations and cannot be equated with "prosecution and punishment" so as to attract Article 20(2) of the Constitution or Section 300 Cr.P.C.

39. The present prosecution, on the other hand, alleges distinct offences of criminal conspiracy, criminal misconduct and misappropriation under the PC Act, IPC, and the MMDR Act, each involving ingredients fundamentally different from those underlying the earlier compensatory proceedings. This conclusion also finds support in ***Institute of Chartered Accountants of India v. Vimal Kumar Surana***, reported in ***(2011) 1 SCC 534***, wherein the Supreme Court held that disciplinary or regulatory proceedings and criminal prosecution, being distinct in their nature, object and ingredients, may proceed independently without offending the rule against double jeopardy. That the Central Empowered Committee did not record a specific finding of "illegal mining" against the firm is, nevertheless, a circumstance germane to the merits of the Prosecution case and may be urged before, and weighed by, the trial Court at the appropriate stage. It does not, however, furnish an independent ground for quashing the FIR and the chargesheet in the exercise of this Court's inherent jurisdiction. The fourth issue stands addressed as above.

40. Equally, regarding the submission of the Petitioner that the mining operations were conducted under duly granted interim permits and the DRP eventually accorded on 03.09.1998, and could not, therefore, be characterised as "illegal", and the stance of the Prosecution, as borne out from the Chargesheet at Annexure-8, that no surface right permission post 05.03.1966 and mining lease post 31.07.1989 has been granted to the lessee, this Court is of the view that the aforesaid contentions also raise disputed questions bearing upon the scope and duration of the permits vis-à-vis the extent of mining actually undertaken, especially since these are matters requiring appreciation of documentary and oral evidence that fall outside the limited compass of an enquiry under Section 482 Cr.P.C which does not extend to a mini-trial or weighing of the sufficiency of evidence. Lastly, the submission of the Petitioner that a petition for quashing remains maintainable notwithstanding the filing of a chargesheet, as held in ***Anand Kumar Mohatta v. State (NCT of Delhi)***, reported in ***(2019) 11 SCC 706***, is not in dispute and requires no further elaboration. The present application is not being disposed of on the ground of maintainability per se, but upon an assessment, on the material presently available, of the specific grounds urged and discussed hereinabove.

41. In conclusion, it is the considered view of this Court that the contention of the Petitioner regarding the want of authorisation of the DSP, Vigilance to lodge the complaint dated 17.11.2009 under Section 22 of the MMDR Act, though expressly kept open by the Hon'ble Supreme Court, does not, on the material presently available, warrant quashing of the F.I.R or Chargesheet at the threshold, particularly in view of the settled principle that a defect in the initiation of investigation does not, by itself, vitiate cognizance validly taken or sanction duly obtained. Since the said contention involves disputed questions of fact and law and has been left open by the Hon'ble Supreme Court, it is more appropriately adjudicated by the learned trial Court, where the Petitioner shall remain at liberty to urge the same along with all consequential contentions and evidence in support. Likewise, the remaining grounds relating to the Petitioner's role in the partnership firm, the legality of the mining operations, and the effect of the penalty already discharged under the FCA also give rise to triable issues that cannot be conclusively determined in exercise of the inherent jurisdiction under Section 482 Cr.P.C and, accordingly, are left open for consideration by the learned trial Court.

42. Having bestowed its anxious consideration on the rival submissions, on a perusal of the documents annexed to the record and on a conspectus of the foregoing analysis, this Court is unable to discern any valid or compelling ground, much less the exceptional parameters delineated in ***Bhajan Lal*** (*supra*), warranting the exercise of its inherent jurisdiction under Section 482 Cr.P.C to quash the impugned F.I.R. and the Chargesheet. The case at hand does not fall within the "rarest of the rare" [paragraph 103 of ***Bhajan Lal*** (*supra*)] so as to justify interference by this Court, at this stage. Accordingly, the present CRLMC petition is dismissed, with liberty to the

Petitioner to raise all the contentions noted hereinabove, including the question of the competence of the officer lodging the complaint under Section 22 of the MMDR Act, before the learned trial Court. It is made clear that the observations made herein are for the limited purpose of disposal of the present application and shall not be construed as an expression of opinion on the merits of the prosecution case, which shall be decided by the learned trial Court, uninfluenced by any observation made hereinabove.

(A. K. Mohapatra)
Judge

Orissa High Court, Cuttack.
The 6th August, 2026/Debasis Aech, Secretary