

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF APRIL, 2021

BEFORE

THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

CRIMINAL PETITION NO.3549 OF 2021

BETWEEN:

SRI. CHANDRAHAS T AMIN
S/O THIMMAPPA AMIN
AGED ABOUT 45 YEARS
R/AT PITHRU CHAYA
AMIN COMPOUND
GANDHINAGARA
KAVOORU, MANGALORE
DAKSHINA KANNADA-575 001 ...PETITIONER

(BY SRI. I. THARANATH POOJARY, ADVOCATE)

AND:

THE STATE OF KARNATAKA
BY DEPUTY DIRECTOR
DEPARTMENT OF MINES & GEOLOGY
1ST FLOOR, JUGUL TOWERS
KADRI, MALLIKATTA, MANGALURU
DAKSHINA KANNADA-575 003
REP. BY STATE PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA
AT BANGALORE-01 ... RESPONDENT

(BY SRI. ROHITH B.J., HCGP)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C, PRAYING TO QUASH THE ORDER DATED 25.09.2019, PASSED BY THE LEARNED JMFC VI, MANGALURU D.K. IN C.C.NO.2731/2019 AND ALL FURTHER PROCEEDINGS AGAINST THE PETITIONER FOR THE ALLEGED OFFENCE P/U/S 4(1), 9, 22, 23 (C) (1) (E) (G) AND 42 (1) (E) R/W 21(1) OF MMRD ACT.

THIS CRIMINAL PETITION COMING ON FOR ORDERS,
THROUGH VIDEO CONFERENCE THIS DAY, THE COURT
MADE THE FOLLOWING:

ORDER

1. Sri.Rohith B.J., HCGP accepts notice for respondent.
2. The petitioner is before this Court seeking for quashing of the order dated 25.09.2019 passed by JMFC. VI, Mangalore D.K., in C.C.No.2731/2019 for the alleged offences punishable under Sections 4(1), 9, 22, 23 (c) (1) (e) (g) and 24 (1) (e) read with Section 21 of MMRD Act.
3. C.C.No.2731/2019 had been filed by the respondent against the petitioner alleging that the petitioner has carried out quarrying operation beyond the licenced area which has been ascertained by carrying out a drone survey in pursuance of which an order dated

19.02.2020 had been passed and prosecution initiated.

4. Sri.Tharanath Poojary, learned counsel for the petitioner would submit that the notice dated 19.02.2020 has been withdrawn and the drone survey reports have also been given up by the State vide Circular issued on 07.12.2020. Therefore, the continuation of the proceedings in C.C.No.2731/2019 based on drone survey report which has been withdrawn. Hence, the notice/order dated 19.02.2020 cannot be continued and as such, seeks for quashing of the said proceedings.
5. Sri.Rohith B.J., HCGP would not contradict the submissions made by the petitioner, except to submit that subsequent to withdrawal of the drone survey report and notice dated 19.02.2020, a fresh notice has been issued on

10.02.2021, he seeks for liberty to initiate action in terms of the notice issued.

6. Heard Sri.Tharanath Poojary, learned counsel for the petitioner and Sri.Rohith B.J., learned HCGP for the respondent and perused the records.
7. It is not in dispute that the notice dated 19.02.2020 and the survey report on which basis C.C.No.2731/2019 has been initiated has been withdrawn. Therefore, when the very drone survey report and notice is not existing as on today, the same cannot be continued. It is also not in dispute that a fresh notice dated 10.02.2021 has been issued.
8. It is always open for the State to initiate any proceedings by conducting a fresh survey in the event of it being found that the petitioner has carried out quarrying operation beyond the licence area.

9. In view thereof, the petition is allowed. The order dated 25.09.2019 passed by JMFC. VI, Mangalore D.K., in C.C.No.2731/2019 for the alleged aforesaid offences is hereby quashed. Liberty is however reserved to the State to initiate fresh proceedings against the petitioner after carrying out a fresh survey if it is found that the petitioner is carrying out the quarrying activities beyond the licenced area.

Sd/-
JUDGE

Prs*