

A P. VIJAYAPAL REDDY & ORS.

v.

GOVERNMENT OF INDIA

August 10, 1978

B [JASWANT SINGH AND P. S. KAILASAM, JJ.]

Interlocutory stage, interference by the High Court under Section 482 of the Code of Criminal Procedure 1973 (Act II of 1974), and by the Supreme Court under Art. 136 is ordinarily impermissible.

C "Shahabad Stones" are included under Item 15 in Schedule I to Rule 10 of the Andhra Pradesh Minor Mineral Concession Rules, 1966. The appellants, who are directors of Tandur and Navandgi Stone Quarries (Pvt.) Ltd. and holders of a mining lease for extraction of lime stones (Shahabad Stones) when being prosecuted, for the alleged violation of Rule 21(1)(ii) of the Mineral Conservation and Development Rules, 1958 which is made punishable under Rule 27 of the said rules in that they failed to employ a qualified

D geologist or a mining engineer, raised a preliminary objection as to the maintainability of the complaint in view of the specific exclusion of the "Shahabad Stones" from the purview of the 1958 Rules, being a minor mineral being used for building and construction purposes. The trial magistrate dismissed the application and the High Court declined to interfere under Section 482 of the Criminal Procedure Code, 1973.

Dismissing the appeal by special leave the Court.

E HELD : As the High Court does not ordinarily interfere at an interlocutory stage of a criminal proceedings pending in a subordinate Court, the A.P. High Court was right in declining to grant relief to the appellants, bearing in mind the well recognised principles of law governing the matter and taking into consideration the nature of the impugned order. It is also not a matter

F in which Supreme Court may legitimately interfere in exercise of their extraordinary powers under Art. 136 of the Constitution especially when the case is at its threshold and evidence has still to be adduced as to whether the minerals extracted could or could not be used as a major mineral for certain purposes. It is not possible to determine difficult question of the kind involved in the instant case, purely in abstract without relevant evidence bearing on the matter in issue. [93G-H, 94A-B]

G CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 261 of 1976.

Appeal by Special Leave from the Judgment and Order dated 2-12-1975 of the Andhra Pradesh High Court in Criminal Misc. Petition No. 2064/75.

H *D. V. Patel, Naunitlal and Miss Kiran Singh* for the Appellants.

P. P. Rao, K. Narayan Rao and G. N. Rao for the Respondent.

The Judgment of the Court was delivered by

JASWANT SINGH, J.—The appellants who are Directors of Tandur and Navandgi Stone Quarries Private Limited and holders of a mining lease for extraction of lime stones (Shahabad Stones) are being prosecuted in the Court of Munsif, Judicial Magistrate, First Class, Tandur, for the alleged violation of Rule 21 (1) (ii) of the Mineral Conservation and Development Rules, 1958 which is made punishable under Rule 27 of the said Rules in that they failed to employ a qualified geologist or a mining engineer. They made an application before the trial Magistrate urging by way of preliminary objection that the complaint against them was not maintainable in view of the fact that the 'Shahabad Stones' which were being extracted by them were used for building and construction purposes and as such were minor minerals which were specifically excluded from the purview of the Rules. The Magistrate dismissed the application holding that what was being operated by the appellants was 'a mine for the purpose of the provisions of Rule 21 of the Mineral Conservation and Development Rules, 1958'. The appellants thereupon moved the High Court for quashing the aforesaid criminal proceedings pending against them reiterating that as the Shahabad Stones which they were extracting were used for building purposes and were described as minor minerals in Item 15 of Schedule I to the Andhra Pradesh Minor Mineral Concession Rules, 1966 (hereinafter referred to as M.M.C. Rules, 1966), the complaint against them was not tenable. The High Court dismissed the application holding that the inherent powers possessed by it under Section 482 of the Code of Criminal Procedure, 1973 could be invoked and exercised only when the facts alleged in the complaint if they are accepted to be correct at their face value, do not make out an offence with which the accused is charged. The High Court further held that merely because the 'Shahabad Stones' were included in Schedule I to Rule 10 of the M.M.C. Rules, it could not be said straightway that the Stones which were being extracted by the appellants were minor minerals and that some evidence regarding their user was necessary for determination of the question as to whether the appellants were entitled to the benefit of the provision of Rule 2 of the M.M.C. & D. Rules which provided that the M.M.C. Rules do not apply to the minor minerals. It is this refusal of the High Court to quash the proceedings which has given rise to the present appeal.

It is now well settled that the High Court does not ordinarily interfere at an interlocutory stage of a criminal proceedings pending in a subordinate Court. Bearing in mind the well recognised principles of law governing the matter and taking into consideration the nature of

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- A** the impugned order, we think the High Court was right in declining to grant relief to the appellants. It is also not a matter in which we may legitimately interfere in exercise of our extraordinary powers under Article 136 of the Constitution specially when the case is at its threshold and evidence has still to be adduced as to whether the minerals extracted could or could not be used as a major mineral for certain
- B** purposes. It must be realised that it is not possible to determine difficult question of the kind involved in the instant case purely in abstract without relevant evidence bearing on the matter in issue. Accordingly, we dismiss the appeal. Our order will not, however, be interpreted as barring the appellants from raising any defence or contention that may be open to them before the trial court which will
- C** dispose of the same in accordance with law uninhibited by any observations made by it earlier or by the High Court in the course of its order dismissing the application under section 482 of the Code of Criminal Procedure, 1973.

S.R.

Appeal dismissed.