



HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR

S.B. Criminal Miscellaneous (Petition) No. 532/2017

CNR: RJHC010221302017

URN: CRLMP / 1472U / 2017



1. Jai Raj S/o Janakraj S/o Thomas Janakraj, 1066 Officer Colony, Anna Nagar, West Extention, Chennai Presently Resident Of D-6 Zink Park, Moti Magari Scheme Udaipur.
2. Hindustan Zink Ltd. Through Nominee Nand Kumar S/o N.b. Lakhchura, Zink Nagar Chittorgarh.

----Petitioners

Versus

1. State Of Rajasthan
2. Prakash Puri /so Kaileshpuri Goswami, Mataji Ki Pandoli, Police Station Chanderiya, District Chittorgarh.

----Respondents

For Petitioner(s)	:	Mr. Manish Sishodia Sr. Adv assisted by Mr. Akhilesh Rajpurohit Mr. Hardik Vyas Mr. Harshwardhan Singh Rathore Kuldeep Mr. Saurabh Sirvi Mr. Tararam Sirvi
For Respondent(s)	:	Mr. N.S.Chaudhary,Dy.G.A. Mr. S.S. Shaktawat

**HON'BLE MR. JUSTICE FARJAND ALI****Order****Reportable-****Date of Conclusion of Arguments : 25/05/2026****Date on which Order is Reserved : 25/05/2026****Full Order or Operative Part : Full Order****Date of Pronouncement : 28/07/2026****By the Court:-**

Grievance-

1. By way of filing the present Misc. Petition under Section 482 Cr.P.C., the petitioners seek quashing and setting aside of the order dated 15.11.2016 passed by the learned Additional District Judge No.1, Chittorgarh in Criminal Revision No. 56/2011, whereby the revision petition preferred by the petitioners came to be dismissed, affirming the order dated 26.09.2011 passed by the learned ACJM No.2, Chittorgarh in Criminal Regular Case No. 210/2008, whereby charges were framed against the petitioners for offences under Sections 278, 285, 287, 290 and 336 IPC read with Sections 15 and 16 of the Environment (Protection) Act, 1986 .

Facts-

2. The respondent No.2/complainant alleged that on 09.11.2005, a leakage of poisonous sulphur gas occurred



from the plant of Hindustan Zinc Ltd. situated near Village Putoli, Chittorgarh, as a consequence whereof the nearby residents allegedly suffered coughing, breathing difficulties and other health-related ailments, resulting in panic amongst the local inhabitants. On the basis of the said allegations, FIR No.327/2005 came to be registered on 10.11.2005 at Police Station Chanderiya against petitioner No.2 for offences under Sections 285, 287, 290 and 336 IPC. Upon completion of investigation, the police prepared a charge-sheet on 22.12.2006 against petitioner No.2 alone for the aforesaid offences under the IPC. During the interregnum, the complainant served a notice dated 17.01.2008 purporting to invoke the provisions of the Environment (Protection) Act, 1986. In response thereto, the Rajasthan State Pollution Control Board, vide communication dated 24.04.2008, informed the complainant that the matter was already under police investigation for offences under the IPC and clarified that it had no authority to institute prosecution under the provisions of the Indian Penal Code.

3. Thereafter, on 05.05.2008, respondent No.2 instituted a private complaint before the learned Additional Chief Judicial Magistrate No.2, Chittorgarh against the present petitioners alleging commission of offences under Sections 278, 285, 287, 290 and 336 IPC read with Sections 15 and 16 of the Environment (Protection) Act, 1986. During consideration of the complaint, the learned Magistrate noticed that, in respect





of the very same occurrence, an FIR had already been registered and that the investigating agency had completed investigation and prepared a charge-sheet against petitioner No.2, though the same had not yet been presented before the competent Court. Accordingly, the learned Magistrate called for the police report and, upon perusal thereof, recorded that the investigating agency had also found prima facie commission of offences under Sections 285, 287, 290 and 336 IPC. The learned Magistrate further observed that, since the complainant had issued the statutory notice contemplated under the Environment (Protection) Act, 1986 and no complaint had been instituted by the competent authority within the prescribed period, the complainant was competent to maintain a private complaint under the said Act. Consequently, vide order dated 02.06.2008, the learned Magistrate took cognizance of offences under Sections 15 and 16 of the Environment (Protection) Act, 1986 as well as Sections 285, 287, 290 and 336 IPC against all the accused persons and directed that, while the police papers be taken on record, the proceedings shall continue as a complaint case, being a warrant case instituted otherwise than on a police report. The learned magistrate also recorded statements under Sections 200 and 202 Cr.P.C.

4. Thereafter, based upon the material available on record, the learned trial Court, vide order dated 26.09.2011, framed charges against all the petitioners for offences under





Sections 278, 285, 287, 290 and 336 IPC read with Sections 15 and 16 of the Environment (Protection) Act, 1986. Aggrieved thereby, the petitioners preferred Criminal Revision No.56/2011, which came to be dismissed by the learned Additional District Judge No.1, Chittorgarh vide order dated 15.11.2016, affirming the order framing charges.

5. Aggrieved by the aforesaid orders, the petitioners invoked the inherent jurisdiction of this Court under Section 482 Cr.P.C. by filing the present Criminal Miscellaneous Petition. The petition was initially decided by a Coordinate Bench of this Court vide order dated 27.03.2017. However, the Hon'ble Supreme Court, vide order dated 25.01.2018 passed in Special Leave Petition (Criminal) Diary No.41963/2017, set aside the order dated 27.03.2017 and remitted the matter to this Court for fresh consideration. In pursuance thereof, the Coordinate Bench of this Court, vide order dated 04.04.2018, restored the present Criminal Miscellaneous Petition to its original number for adjudication on merits.
6. Subsequently, during the course of hearing, the Coordinate Bench of this Court, vide order dated 16.05.2018, recorded the statement made on behalf of the petitioners that the petition was not being pressed insofar as petitioner No.2 – Ashok was concerned and, accordingly, dismissed the petition as not pressed qua the said petitioner while directing that the proceedings shall continue in relation to the



remaining petitioner(s). The present petition, therefore, survives only at the instance of the remaining petitioner(s), who submit that the institution and continuation of the complaint proceedings are wholly unsustainable in law, being contrary to the mandatory provisions of the Environment (Protection) Act, 1986, the material collected during investigation, and the settled principles governing criminal prosecution, thereby warranting exercise of the inherent jurisdiction of this Court under Section 482 Cr.P.C. for quashing of the impugned orders and all consequential criminal proceedings.

7. Heard learned counsels present for the parties and gone through the materials available on record.

Observations regarding Scope of Interference under Section 482 Cr.P.C., Nature of Criminal Liability and Broad Issues Involved

Observations

8. This Court has bestowed its anxious consideration to the entire material available on record, including the complaint, the police investigation, the occurrence report, the report of the Regional Forensic Science Laboratory, the orders passed by the learned Magistrate as well as the revisional Court, and the statutory framework governing the controversy. The question which arises for consideration is not merely whether a leakage of gas had occurred on the fateful evening of



09.11.2005, but whether the material collected by the complainant and the investigating agency is legally sufficient to justify continuation of criminal prosecution against the present petitioner, particularly in the absence of any specific allegation attributing a criminal role to him.

9. Criminal jurisprudence proceeds on the fundamental premise that criminal liability is essentially personal in nature. Unlike civil law, where liability may sometimes arise by virtue of relationship, ownership or status, criminal law insists upon proof of a culpable act coupled with the requisite degree of mens rea or statutory responsibility. A person cannot be exposed to criminal prosecution merely because he occupies a superior administrative position in a company or happens to hold an office carrying managerial designation. Unless the statute specifically engrafts the principle of vicarious liability or the material collected during investigation demonstrates active participation, consent, connivance or culpable negligence, criminal law does not permit prosecution merely on account of designation.

10. The inherent jurisdiction of this Court under Section 482 Cr.P.C. is intended to secure the ends of justice and to prevent abuse of the process of Court. Although this extraordinary jurisdiction is required to be exercised sparingly, it is equally well settled that where the uncontroverted allegations, even if accepted at their face



value, fail to disclose the essential ingredients of the alleged offences or where continuation of criminal proceedings would amount to misuse of the judicial process, this Court would not hesitate to interdict such prosecution at the threshold.

11. It is equally trite that while considering a petition for quashing, this Court is not expected to meticulously appreciate the evidence as would be undertaken during trial. Nevertheless, the Court cannot shut its eyes to glaring legal deficiencies apparent on the face of the record. If the material relied upon by the prosecution is inherently inconsistent, fundamentally contradictory or incapable of establishing the foundational ingredients of criminal liability, relegating the accused to undergo the ordeal of a prolonged criminal trial would itself amount to injustice. Criminal prosecution cannot be permitted to assume the character of a punitive process in the absence of a legally sustainable accusation.

12. The facts of the present case present an unusual situation. The occurrence in question had already been investigated by the police pursuant to registration of FIR No.327/2005. Upon completion of investigation extending over more than one year, the investigating agency found sufficient material only against one functionary of the plant and consciously did not implicate the present petitioner(Jai Raj). Thereafter, on the very same factual foundation, a private complaint came to



be instituted seeking to prosecute not only the company but also its senior officials including the present petitioner. Thus, the issue before this Court is not merely whether a gas leakage occurred, but whether the subsequent complaint discloses any independent material justifying prosecution of a person who had consciously been excluded from the police investigation.

13. Significantly, the complaint itself proceeds on broad and omnibus allegations against the senior officers of Hindustan Zinc Limited. There is no specific assertion explaining the exact role played by the petitioner on the date of occurrence; nor does the complaint disclose that he was present at the concerned unit when the alleged leakage occurred. There is no averment that the petitioner was supervising the operation of the acid plant, handling the machinery from which leakage allegedly emanated, issuing operational instructions, or exercising direct control over the functioning of the particular manufacturing process. The complaint merely proceeds on the assumption that since the petitioner occupied a senior administrative office within the company, he must necessarily bear criminal responsibility for every incident occurring in the establishment. Such an approach is wholly alien to settled principles of criminal jurisprudence.



14. The distinction between corporate responsibility and criminal culpability assumes considerable significance in cases involving industrial undertakings. Modern corporations function through several departments, each supervised by different officers entrusted with separate operational responsibilities. Every industrial mishap cannot automatically translate into criminal prosecution of every officer occupying a higher echelon in the corporate hierarchy. Acceptance of such a proposition would virtually obliterate the distinction between **administrative accountability** and **criminal culpability**, thereby converting every senior executive into an accused whenever any untoward incident occurs within the industrial premises. Criminal law does not countenance such sweeping presumptions.

15. Equally important is the principle that suspicion, however grave, cannot substitute legal evidence. Mere occurrence of an unfortunate industrial accident cannot ipso facto establish commission of offences punishable under Sections 278, 285, 287, 290 or 336 IPC. The prosecution must prima facie demonstrate the existence of a rash or negligent act attributable to the particular accused. Unless the material discloses that the accused either committed an act so rashly or negligently as to endanger human life or knowingly omitted to take necessary precautions despite being under a legal duty to do so, the essential ingredients of the penal provisions remain unfulfilled.



16. The learned courts below appear to have proceeded substantially on the premise that since environmental protection is of paramount constitutional importance and the alleged incident involved escape of poisonous gas, the senior officers of the company could legitimately be called upon to face trial. While there can be no quarrel with the constitutional obligation of industries to maintain ecological balance and safeguard public health under Article 21 of the Constitution, constitutional significance of environmental protection cannot dilute the settled principles governing criminal liability. Constitutional values undoubtedly demand strict adherence to environmental norms; however, criminal prosecution must nevertheless conform to the statutory requirements prescribed by law. Constitutional concern cannot be permitted to substitute the legal proof required for fastening criminal responsibility upon an individual.

17. The impugned orders further indicate that the courts below treated the status of the petitioners as a senior functionary of the company as sufficient to infer their responsibility regarding environmental compliance. Such reasoning, in the considered opinion of this Court, reverses the settled burden recognised under criminal law. The prosecution is required to first establish, at least prima facie, the existence of material connecting the accused with the alleged offence. Criminal liability cannot arise merely because the accused fails to demonstrate his innocence. The presumption of innocence



continues to operate until displaced by legally admissible material. To compel an individual to face a criminal trial solely on account of his designation would amount to permitting criminal law to operate upon assumptions rather than evidence.

18. Before examining the individual offences alleged against the petitioner, it becomes imperative to determine whether the statutory framework governing offences committed by companies at all permits prosecution of the present petitioner in the absence of specific allegations regarding his personal involvement. Equally necessary is an examination of the extent to which the provisions of the Environment (Protection) Act, 1986 incorporate the doctrine of vicarious liability and whether the complaint satisfies those mandatory statutory requirements. Since these issues strike at the very root of the maintainability of the criminal proceedings, this Court considers it appropriate to examine them before dealing with the factual inconsistencies emerging from the occurrence report, forensic material and other evidence collected during investigation.

Observations on Vicarious Liability under the Environment (Protection) Act, 1986 and Criminal Liability of the Present Petitioner

19. The foremost question which falls for consideration is whether the present petitioner could have been prosecuted



merely because they happened to occupy the office of Senior Vice-President/President of Hindustan Zinc Limited. The answer to this question necessarily depends upon the statutory scheme governing offences committed by companies as well as the settled principles of criminal jurisprudence relating to vicarious liability.

20. At the outset, it deserves emphasis that criminal law recognizes individual culpability as its foundational principle. Unless a statute expressly creates a legal fiction extending criminal liability to persons other than the actual offender, every accused is answerable only for his own acts or omissions. Unlike civil liability, where responsibility may arise on account of ownership, agency or employment, criminal liability ordinarily remains personal and cannot be inferred merely by virtue of an individual's position in an organization.

21. The Environment (Protection) Act, 1986 undoubtedly contains a provision dealing with offences committed by companies. Section 16, as it stood at the relevant point of time, creates a statutory fiction by which every person who, at the time of commission of the offence, was directly in charge of and responsible to the company for the conduct of its business, as well as the company itself, may be proceeded against. Sub-section (2) further extends liability to any Director, Manager, Secretary or other officer only



where the offence is shown to have been committed with his consent, connivance or due to his neglect. Thus, even the statute itself does not contemplate automatic prosecution of every officer holding a high designation in the corporate hierarchy. Rather, the legislative intent unmistakably requires a clear nexus between the individual sought to be prosecuted and the commission of the alleged offence.

22. The expression "person in charge of and responsible to the company for the conduct of its business" has consistently received strict interpretation by constitutional courts. The phrase does not refer to every officer drawing a higher salary or occupying a superior administrative office. It contemplates a person who exercises actual operational control over the affairs resulting in commission of the offence. The emphasis is upon effective control, actual supervision and decision-making authority concerning the particular activity constituting the alleged violation.

23. The complaint filed by respondent No.2 falls conspicuously short of satisfying these indispensable statutory requirements. A careful reading thereof reveals that the complainant has nowhere pleaded that the petitioner was directly supervising the functioning of the acid plant, that he was controlling the operational process from which the alleged gas leakage occurred, that he had issued any instructions resulting in the accident, or that the alleged



omission occurred with his consent or connivance. Equally absent is any averment that the petitioner had neglected any statutory duty specifically entrusted to him. The allegations remain wholly omnibus and generalized, seeking to implicate every senior officer solely because they occupied responsible positions within the company.

24. Criminal law, however, does not permit such sweeping allegations to substitute the specific factual foundation mandated by Section 16 of the Act. Where the legislature itself insists that liability of officers of a company arises only if they were responsible for the conduct of the business or if the offence occurred with their consent, connivance or neglect, the Court cannot dilute those statutory safeguards by importing presumptions unsupported by pleadings or evidence.

25. The police investigation assumes considerable significance in this regard. The FIR registered immediately after the incident did not name the present petitioner as an accused. During investigation, statements of employees, technical records and relevant material were collected by the investigating agency. Despite such investigation, the police consciously refrained from filing a charge-sheet against the petitioner and instead submitted the report only against another officer who was allegedly concerned with the operational functioning of the plant. This conscious exclusion



of the petitioner by the investigating agency constitutes an important circumstance which the courts below were required to examine with greater circumspection before permitting continuation of criminal proceedings through a subsequent private complaint.

26. It is true that the conclusions recorded by the investigating agency are not binding upon the Magistrate and the Court is competent to take cognizance even where the police does not prosecute a particular person. However, where the investigating agency, after a detailed technical investigation, finds no material connecting a senior officer with the alleged occurrence, the Court is expected to identify independent material demonstrating his involvement before compelling him to face a criminal trial. In the present case, no such independent material is discernible from the record.

27. What is more striking is the complete absence of any documentary evidence indicating the petitioner's involvement in the day-to-day operations of the concerned unit. No service record has been produced demonstrating that the petitioner exercised supervisory control over the acid plant. No organizational chart has been placed on record showing that operational decisions concerning the contact tower or acid loading pump were being taken under his authority. No internal communication, inspection report, maintenance instruction, operational directive or technical correspondence



has been relied upon to establish that the petitioner possessed immediate responsibility over the machinery allegedly responsible for the leakage. The prosecution has thus sought to bridge this evidentiary vacuum merely by relying upon the petitioner's designation.

28. Equally absent is any oral evidence attributing a specific overt act to the petitioner. The statements recorded during the complaint proceedings merely refer to certain officers of Hindustan Zinc Limited in a generalized manner without narrating any act personally committed by the petitioner. None of the witnesses claims to have seen the petitioner operating the plant, issuing operational directions, ignoring any technical defect or refusing preventive measures. Their statements merely reflect a perception that senior officers were responsible because the incident occurred within the company's establishment. Such generalized assumptions, howsoever bona fide, cannot satisfy the strict standards governing criminal prosecution.

29. The learned Magistrate appears to have proceeded on the premise that environmental protection being a matter of public importance, responsibility must necessarily extend to the senior management of the company. Such reasoning overlooks the distinction between administrative accountability and criminal culpability. Administrative responsibility may indeed require senior management to



ensure compliance with environmental standards. Criminal responsibility, however, cannot be fastened unless the ingredients prescribed by the penal statute are specifically established.

30. The Hon'ble Supreme Court has repeatedly cautioned that criminal liability of company officials cannot be inferred merely because of the office held by them. In ***Sanjay Dutt v. State of Haryana (2025 SCC ONLINE SC 32)***, the Supreme Court authoritatively reiterated that vicarious liability is not automatic and arises only where the statute specifically provides for it and where the complaint contains clear and specific allegations demonstrating the personal role of the officer sought to be prosecuted. The Court further held that mere supervisory status or designation is insufficient and there must exist material showing that the alleged acts stemmed from the individual's own conduct and involvement.

31. Similar principles have consistently been reiterated in *Maharashtra State Electricity Distribution Co. Ltd. v. Datar Switchgear Ltd.* ((2010) 10 SCC 479), wherein the Supreme Court observed that where the statute does not expressly create vicarious liability, Directors or officers of a company cannot be prosecuted merely because of their official position and the complaint must contain specific averments regarding their individual role.



32. The above principles are not mere procedural technicalities. They represent substantive safeguards flowing from the fundamental presumption of innocence. If every industrial accident were sufficient to prosecute every Director, Vice-President or senior executive irrespective of his actual involvement, criminal law would cease to punish personal wrongdoing and would instead penalize status. Such an interpretation would not only run contrary to settled jurisprudence but would also render the carefully drafted language of Section 16 otiose.

33. Tested on the touchstone of these settled principles, the complaint in the present case is conspicuously deficient. Neither does it plead that the petitioner was directly in charge of the acid plant nor does it allege that the occurrence resulted from his consent, connivance or neglect. No material collected during investigation supplements these deficiencies. On the contrary, the police investigation itself refrained from attributing criminal responsibility to the petitioner. The continuation of prosecution against him, therefore, rests solely upon presumptions flowing from his designation, which is legally impermissible.

34. This Court is, therefore, of the considered opinion that both the learned trial Court as well as the revisional Court committed a manifest error in overlooking the mandatory ingredients of Section 16 of the Environment (Protection)



Act, 1986 and in proceeding on the erroneous assumption that the petitioner's senior position within the company, by itself, constituted sufficient ground to frame charges against him. Such an approach runs contrary to the statutory scheme, the settled principles governing corporate criminal liability, and the law declared by the Hon'ble Supreme Court.

35. Having found that the prosecution suffers from a fundamental legal infirmity regarding the fastening of vicarious liability, this Court shall now examine whether the technical and scientific evidence relied upon by the prosecution is itself consistent enough to disclose the commission of the alleged offences. Since the occurrence report and the Regional Forensic Science Laboratory report appear to travel in entirely different directions regarding the nature and source of the alleged hazardous substance, their evidentiary impact requires independent examination before the criminal proceedings are permitted to continue.

Observations on Scientific Evidence, Contradictory Material on Record, Applicability of *Vis Major* and Whether the Essential Ingredients of the IPC Offences are Prima Facie Established

36. Having examined the question of vicarious liability, this Court now proceeds to evaluate the evidentiary foundation upon which the prosecution seeks to sustain the charges under Sections 278, 285, 287, 290 and 336 IPC. At the stage



of framing of charge, although the Court is not expected to undertake a meticulous appreciation of evidence, it is nevertheless under a solemn obligation to ascertain whether the material collected by the prosecution, if accepted at its face value, discloses the essential ingredients of the offences alleged. Where the foundational material itself suffers from intrinsic inconsistencies, irreconcilable contradictions or scientific improbabilities, continuation of criminal prosecution would cease to be an exercise in administration of justice and would instead degenerate into an abuse of the process of Court.

37. The prosecution case fundamentally rests upon the allegation that poisonous gas escaped from the acid plant of Hindustan Zinc Limited on the evening of 09.11.2005, resulting in irritation to the eyes, breathing difficulties and panic amongst the inhabitants residing in the vicinity of Village Putholi. In order to substantiate this allegation, reliance has principally been placed upon two pieces of scientific material, namely, the Scene of Occurrence Report prepared by the team of the Regional Forensic Science Laboratory and the Chemical Examination Report issued by the same forensic laboratory after examination of the seized samples. A careful scrutiny of these two reports, however, reveals a striking inconsistency which goes to the very root of the prosecution story.



38. The Scene of Occurrence Report records that the forensic experts inspected the smelter immediately after the incident and noted that the acid plant had allegedly developed operational difficulties due to failure of the acid loading pump. It was opined that because the contact tower could not completely absorb sulphur trioxide (SO_3), a portion of the unabsorbed SO_3 gas escaped through the chimney and, upon coming into contact with atmospheric moisture, formed dense acidic fog capable of causing irritation to the eyes, nose and throat. The report, therefore, attributes the alleged occurrence specifically to escape of sulphur trioxide gas from the contact tower consequent upon mechanical failure of the acid loading pump.

39. Significantly, however, the Chemical Examination Report prepared by the very same Regional Forensic Science Laboratory presents an entirely different picture. The report records that the liquid samples collected from the spot emitted smell of alcohol and, upon chemical examination, did not give positive tests for the presence of any acid whatsoever. Thus, the scientific examination of the very samples allegedly collected in connection with the incident failed to detect the presence of acidic content, which one would reasonably expect if the prosecution version regarding substantial escape of sulphur trioxide and formation of sulphuric acid mist were correct.



40. This contradiction is neither peripheral nor inconsequential.

It strikes at the very substratum of the prosecution case. On the one hand, the occurrence report proceeds upon the hypothesis that the escape of sulphur trioxide gas was responsible for the alleged environmental contamination. On the other hand, the scientific examination of the seized samples completely negates the presence of acid, thereby rendering the prosecution's own scientific evidence mutually destructive. It is difficult to reconcile how an alleged escape of sulphur trioxide, sufficiently serious to cause widespread irritation and atmospheric contamination, would simultaneously leave no detectable acidic residue in the samples forwarded for forensic examination.

41. The learned courts below unfortunately failed to advert to this glaring inconsistency. Neither the order framing charge nor the revisional order reflects any consideration of the evidentiary implications arising from these contradictory scientific reports. The courts below appear to have proceeded on the broad assumption that the occurrence of gas leakage itself was sufficient to justify prosecution, without examining whether the scientific material actually corroborated the allegations forming the basis of the complaint.

42. It deserves emphasis that scientific evidence occupies a unique position in criminal adjudication. Unlike oral



testimony, scientific analysis is expected to provide objective and neutral assistance to the Court. Where two scientific materials originating from the same investigative process point in diametrically opposite directions, the Court cannot simply overlook such inconsistency and compel an accused to undergo criminal trial on the basis of conjectures. Criminal prosecution must rest upon coherent and legally admissible material rather than internally inconsistent scientific hypotheses.

43. Equally significant is the complete absence of any contemporaneous medical evidence establishing that the alleged victims suffered injuries attributable to sulphur trioxide exposure. No medical report demonstrating acid burns, pulmonary injury or toxic inhalation attributable to SO_3 has been placed on record. The prosecution also does not disclose any scientific correlation between the alleged symptoms experienced by certain villagers and the specific chemical allegedly released from the plant. Mere assertions of coughing or breathing discomfort, without scientific linkage to the alleged emission, cannot by themselves establish the commission of offences punishable under the penal provisions invoked.

44. The occurrence report itself indicates that the alleged escape of gas was occasioned due to failure of the acid loading pump. Significantly, there is nothing on record



suggesting that such mechanical failure was deliberately engineered or intentionally ignored by the petitioner. Industrial machinery, despite regular maintenance, may occasionally malfunction owing to mechanical fatigue, unforeseen technical defects or sudden operational contingencies. Criminal law recognizes a clear distinction between an unfortunate industrial accident and an act of criminal negligence. Every mechanical failure does not ipso facto amount to a criminal offence.

45. This distinction finds expression in the well-recognized doctrine of vis major, sometimes referred to as inevitable accident or irresistible occurrence. Although the doctrine has traditionally been invoked in civil jurisprudence, its underlying principle, that consequences resulting from unforeseen and unavoidable events cannot ordinarily attract penal consequences in the absence of culpable negligence, has equal relevance while examining criminal liability arising from industrial accidents. Criminal negligence postulates a conscious disregard of a known risk or a gross omission amounting to recklessness. It cannot be presumed merely because an accident has occurred.

46. The material available on record, far from indicating deliberate disregard of safety measures, suggests that the acid plant was shut down immediately upon noticing operational difficulties in the loading pump. The occurrence



report itself records that the plant had been stopped at about 7:45 p.m. because of heating of the acid loading pump. This circumstance assumes considerable importance. Immediate stoppage of the plant upon detection of mechanical difficulty prima facie indicates an attempt to prevent further consequences rather than a reckless indifference towards public safety. Such conduct is inconsistent with the ingredients of rashness or gross negligence contemplated under Sections 285 and 287 IPC.

47. Sections 285 and 287 IPC criminalize negligent conduct with respect to combustible matter and machinery respectively. The gravamen of these offences lies in doing an act rashly or negligently, or knowingly omitting to take reasonable precautions sufficient to guard against probable danger. The prosecution must therefore demonstrate not merely that an accident occurred but that the accused consciously omitted to take precautions which an ordinarily prudent person entrusted with such machinery would have taken. The present record is singularly silent on this aspect. There is no maintenance register, inspection report, technical audit, statutory notice or expert opinion indicating prior knowledge of imminent danger on the part of the petitioner or his deliberate failure to rectify the alleged defect. There is no material to suggest that the plant did not possess the requisite licence for use of the chemicals or the requisite Consent to Operate from the competent authorities.



48. Likewise, the offence under Section 336 IPC requires proof of an act so rash or negligent as to endanger human life or personal safety. The emphasis again is upon the conduct of the accused. Neither the complaint nor the evidence collected during investigation identifies any specific act committed by the petitioner capable of satisfying this statutory ingredient. In the absence of any overt act attributable to him, invocation of Section 336 IPC becomes wholly unsustainable.

49. The offence under Section 278 IPC contemplates making the atmosphere noxious to health. Even assuming, arguendo, that some atmospheric contamination had occurred, the prosecution is still required to establish a prima facie nexus between such contamination and the acts of the particular accused sought to be prosecuted. Mere existence of environmental pollution does not automatically implicate every officer of the company. The prosecution has failed to bridge this indispensable causal connection.

50. Equally, Section 290 IPC dealing with public nuisance cannot be invoked in isolation divorced from the factual foundation establishing criminal responsibility. Public nuisance under the Penal Code is not a doctrine of strict liability. The prosecution must first establish that the accused committed or permitted the alleged nuisance through acts attracting criminal culpability. In the absence of any material



connecting the petitioner with the operational functioning of the plant or with the alleged mechanical failure, even this offence cannot survive independently.

51. It is a settled principle of criminal jurisprudence that where the prosecution evidence itself gives rise to two equally plausible hypotheses, one pointing towards culpable negligence and the other indicating an unfortunate industrial accident resulting from mechanical malfunction, the Court must adopt the interpretation favourable to the accused, particularly where continuation of criminal prosecution is sought merely on speculative assumptions. The law does not countenance criminal trials founded upon uncertain scientific premises and generalized allegations.

52. Viewed cumulatively, therefore, the scientific evidence available on record neither presents a consistent account regarding the alleged hazardous substance nor establishes the necessary causal link between the petitioner and the occurrence. The contradiction between the occurrence report and the forensic chemical analysis, the absence of any technical material demonstrating prior knowledge or deliberate omission, the lack of medical evidence establishing toxic exposure, and the complete absence of material attributing operational control to the petitioner collectively demolish the foundational basis required for





framing charges under the aforesaid provisions of the Penal Code.

53. This Court is, therefore, unable to persuade itself to concur with the conclusion reached by the learned courts below that sufficient prima facie material existed for proceeding against the petitioner. On the contrary, the material on record unmistakably discloses that the prosecution has sought to substitute presumptions for proof and designation for culpability, a course wholly impermissible under criminal law.

Observations on the Maintainability of the Complaint under Section 19 of the Environment (Protection) Act, 1986, Effect of the Earlier Police Investigation and Abuse of the Process of Law

54. Having examined the question of vicarious liability and the evidentiary inconsistencies surrounding the alleged occurrence, this Court now proceeds to determine whether the complaint itself was maintainable under the provisions of the Environment (Protection) Act, 1986. This issue assumes considerable significance because the offences under Sections 15 and 16 of the Act do not stand on the same footing as ordinary offences under the Indian Penal Code. The Environment (Protection) Act is a special legislation containing a self-contained mechanism governing initiation of prosecution, cognizance of offences and the persons competent to institute criminal proceedings. Consequently,



strict adherence to the statutory mandate is not merely procedural but constitutes a jurisdictional pre-condition for the assumption of criminal jurisdiction by the Court.

55. Section 19 of the Act imposes a clear embargo upon the power of the criminal court to take cognizance of offences under the Act. The language employed by the legislature is negative and prohibitory in character. It categorically stipulates that "No Court shall take cognizance" except upon a complaint made either by the Central Government or an authority duly authorised by it, or by any other person who has given not less than sixty days' notice, in the prescribed manner, of the alleged offence and of his intention to institute prosecution. The provision, therefore, is not merely directory but mandatory in nature, as it regulates the very jurisdiction of the criminal court to entertain proceedings under the Act.

56. The object underlying Section 19 is not difficult to discern. Environmental issues frequently involve technical, scientific and regulatory considerations requiring evaluation by expert authorities possessing the requisite expertise. Before exposing an industrial establishment to criminal prosecution under a special environmental statute, the legislature intended that the competent governmental authority should first be afforded an opportunity to examine the alleged violation and decide whether prosecution is warranted. The



statutory notice contemplated under Section 19 is thus intended to avoid unnecessary criminal litigation while simultaneously ensuring effective enforcement of environmental standards through specialised regulatory agencies.



57. In the present case, it is not disputed that respondent No.2 issued a notice dated 17.01.2008 addressed to the Rajasthan State Pollution Control Board. In response thereto, the Board, vide communication dated 21.04.2008, informed the complainant that the matter had already been investigated by the police in connection with the offences registered under the Indian Penal Code and that the Board was not initiating prosecution under the circumstances. Thereafter, the complainant instituted the present complaint on 05.05.2008 invoking Sections 15 and 16 of the Environment (Protection) Act along with the provisions of the Indian Penal Code.

58. The learned courts below proceeded on the premise that mere expiry of sixty days after issuance of notice automatically entitled the complainant to institute prosecution under the Act. Such an interpretation, in the considered opinion of this Court, overlooks the larger statutory context in which Section 19 operates. Compliance with the notice requirement undoubtedly enables a private person to institute a complaint where the competent



authority chooses not to act. However, the provision cannot be interpreted in a manner that permits a complainant to circumvent or duplicate an investigation already undertaken by a statutory investigating agency on the very same occurrence, particularly when such investigation had culminated in a considered police report.

59. The chronology of events assumes considerable importance. Immediately after the alleged incident dated 09.11.2005, FIR No.327/2005 was registered by the jurisdictional police. The investigation was not casual or perfunctory. Technical experts from the Regional Forensic Science Laboratory visited the site, inspected the plant, recorded observations and examined relevant samples. Upon completion of investigation, the police consciously filed a charge-sheet only against one officer while not finding sufficient material to prosecute the present petitioner. Thus, long before the institution of the complaint under the Environment (Protection) Act, the machinery of criminal law had already been set in motion and had substantially examined the very allegations forming the basis of the subsequent complaint.

60. It is noteworthy that the communication of the Pollution Control Board itself expressly refers to the pendency of police investigation. The Board did not record any independent finding suggesting violation of the provisions of



the Environment (Protection) Act by the petitioner. Nor did it express disagreement with the outcome of the police investigation. On the contrary, its response indicates that the matter was already under consideration by the investigating agency. In such circumstances, the subsequent complaint, instead of placing any fresh scientific or technical material before the Court, merely sought to enlarge the list of accused by introducing senior officers who had consciously not been prosecuted by the investigating agency.

61. This aspect assumes added significance because the complaint does not disclose any independent investigation undertaken by the complainant after receipt of the Board's communication. No fresh expert opinion, no additional technical report and no new scientific material have been brought on record which could justify reopening the issue of criminal liability against persons who had already stood excluded during police investigation. The complaint is, therefore, substantially founded upon the very factual matrix which had already been scrutinized by the investigating agency.

62. Criminal law certainly permits a Magistrate to take cognizance upon a complaint notwithstanding the conclusions recorded in a police report. Equally well settled, however, is the principle that where a subsequent complaint merely reiterates the same allegations without disclosing any



fresh material or exceptional circumstance, the Court must exercise greater caution lest the criminal process be converted into an instrument for repeatedly prosecuting individuals on identical allegations. The administration of criminal justice cannot be permitted to assume the character of successive attempts to secure prosecution until a desired result is achieved.



63. The Hon'ble Bombay High Court in ***Pratap Lal Teli v. State of Maharashtra 2019 SCC ONLINE BOM 4274*** has explained that Section 19 creates a statutory fetter upon cognizance under the Environment (Protection) Act and that prosecution must strictly conform to the requirements prescribed therein. Likewise, the Jharkhand High Court in ***Vivek Kumar v. State of Jharkhand 2015 SCC Online Jhar 5011*** reiterated that proceedings initiated in derogation of the statutory mandate governing cognizance under the Act are legally unsustainable. Though arising in different factual contexts, these decisions reinforce the principle that the procedural safeguards engrafted in Section 19 cannot be diluted by liberal interpretation.

64. Equally relevant is Section 24 of the Environment (Protection) Act, which recognizes that where an act or omission constitutes an offence punishable both under the Environment (Protection) Act and under any other enactment, the offender shall ordinarily be punished under



the other enactment. The legislative intent underlying this provision is to avoid overlapping prosecutions for the same occurrence and to harmonize the operation of special and general criminal laws. In the present case, investigation under the provisions of the Indian Penal Code had already culminated in submission of a police report. The subsequent complaint, instead of bringing any additional statutory violation to light, merely sought to prosecute additional persons on substantially identical allegations. Such duplication hardly advances the object sought to be achieved by the statute.

65. The Court is also constrained to observe that permitting such successive proceedings on identical facts would have far-reaching consequences. Every time an investigating agency chooses not to prosecute a particular officer of a company, an interested individual may institute a parallel complaint under the special enactment seeking to array the very same person as an accused, notwithstanding the absence of fresh material. Such an approach would seriously undermine the finality attached to investigative conclusions and would expose individuals to repeated criminal proceedings founded upon identical allegations.

66. The facts of the present case unmistakably reveal that the complainant did not place before the learned Magistrate any material which had escaped consideration during police



investigation. Rather, the complaint substantially relies upon the same occurrence, the same alleged gas leakage and the same factual allegations. The only material difference lies in the attempt to prosecute additional senior officers of the company despite the investigating agency having consciously refrained from implicating them. Criminal law cannot be permitted to become a vehicle for such enlargement of liability in the absence of legally admissible material.

67. The learned Magistrate, while taking cognizance, appears to have proceeded primarily on the consideration that since the complainant had served notice under Section 19 and no prosecution had been launched by the competent authority within sixty days, the complaint became maintainable as a matter of course. Such reasoning, in the respectful opinion of this Court, is incomplete. The Court was equally required to examine whether the complaint disclosed the essential ingredients of the offences under the special enactment, whether the mandatory requirements of Section 16 stood prima facie satisfied, whether any independent material justified prosecution of the petitioner, and whether the complaint merely duplicated an investigation already undertaken by the police. These jurisdictional considerations unfortunately remained unaddressed.

68. The revisional Court also fell into the same error by confining its inquiry to the question of service of notice and



the expiry of sixty days, without examining whether continuation of criminal proceedings against the petitioner, in the peculiar facts of the present case, amounted to an abuse of the process of law. The revisional jurisdiction exists precisely to correct such jurisdictional errors; however, the impugned revisional order merely affirmed the reasoning of the learned Magistrate without independently evaluating these foundational issues.

69. Viewed cumulatively, therefore, this Court is of the considered opinion that the institution and continuation of the complaint against the present petitioner suffer from serious legal infirmities. The complaint neither discloses compliance with the substantive requirements necessary for fastening liability under Section 16 of the Act, nor places any fresh material beyond that already examined during police investigation, nor establishes any independent basis for prosecuting the petitioner despite his exclusion from the police report. In these circumstances, allowing the prosecution to continue would amount to permitting the criminal process to be employed as a means of harassment rather than as an instrument for the administration of justice.

70. The criminal justice system is intended to protect society against offenders; it is equally intended to protect citizens against unwarranted prosecution. The inherent jurisdiction of



this Court exists precisely to prevent such misuse of judicial process where criminal proceedings, though clothed in legal form, lack the substantive foundation necessary to justify continuation. The present case, in the opinion of this Court, falls squarely within that category.

Cumulative Findings, Exercise of Inherent Jurisdiction under Section 482 Cr.P.C. and Final Conclusions

71. Having bestowed thoughtful consideration to the pleadings, the documentary material placed on record, the scientific reports, the statutory framework governing the controversy and the legal principles governing corporate criminal liability, this Court is persuaded to hold that the continuation of criminal proceedings against the present petitioner cannot be sustained in the eyes of law. The cumulative effect of the material available on record unmistakably demonstrates that the prosecution, insofar as it relates to the present petitioner, lacks the essential legal and factual foundation necessary for continuation of criminal proceedings.

72. The first and foremost infirmity which strikes at the very root of the prosecution is the complete absence of any specific allegation demonstrating the petitioner's direct involvement in the commission of the alleged offences. Neither the FIR nor the private complaint attributes any overt act to the petitioner. There is no assertion that he was present at the concerned plant at the relevant point of time;



no allegation that he supervised the operation of the acid plant; no material to indicate that he exercised operational control over the machinery from which the alleged leakage is stated to have occurred; and no averment whatsoever that the occurrence resulted from his consent, connivance or deliberate neglect. The entire prosecution proceeds on the assumption that the petitioner, by virtue of his senior designation within the company, must necessarily bear criminal responsibility for every operational incident occurring within the industrial establishment. Such an assumption is wholly incompatible with the settled principles of criminal jurisprudence.

73. Equally significant is the fact that the investigating agency, after conducting a detailed investigation pursuant to the registration of FIR No.327/2005, consciously refrained from filing a charge-sheet against the present petitioner. The investigation was not superficial. Technical experts were associated with the inquiry, scientific reports were obtained and the operational circumstances surrounding the alleged incident were examined. Despite such investigation, the police did not find sufficient material warranting prosecution of the petitioner. Although such conclusion may not be binding upon the Magistrate, it nevertheless constituted a relevant circumstance requiring independent consideration before the petitioner was summoned to face trial. Unfortunately, neither the learned Magistrate nor the



revisional Court assigned any cogent reason for discarding the investigative conclusion insofar as the petitioner was concerned.

74. The scientific evidence available on record further compounds the uncertainty surrounding the prosecution case. The Scene of Occurrence Report attributes the alleged incident to escape of sulphur trioxide (SO₃) gas owing to failure of the acid loading pump, whereas the Regional Forensic Science Laboratory, upon chemical examination of the seized samples, did not detect the presence of acid and instead recorded smell of alcohol in the samples examined. These two scientific materials, emanating from the same investigative process, travel on divergent factual premises. The prosecution has offered no explanation reconciling these apparent inconsistencies. In criminal law, where scientific evidence itself suffers from such internal contradictions, the Court cannot mechanically proceed upon assumptions unsupported by coherent forensic material.

75. This Court is equally unable to overlook the complete absence of technical evidence demonstrating that the petitioner had prior knowledge of any defect in the acid loading system or that he consciously omitted to rectify any known hazard. No maintenance record, inspection report, safety audit, technical communication or internal correspondence has been produced to indicate that the



petitioner ignored any imminent danger despite being under a legal obligation to act. In the absence of such material, the essential ingredients of rashness or criminal negligence contemplated under Sections 285, 287 and 336 IPC remain conspicuously absent.



76. The occurrence report itself records that the acid plant was stopped immediately upon detection of operational difficulties in the acid loading pump. Prima facie, such material indicates an attempt to contain the situation rather than a deliberate disregard of public safety. Industrial operations involving sophisticated machinery are inherently susceptible to unforeseen mechanical failures. Criminal law does not punish every industrial accident; it punishes culpable negligence. Unless the prosecution demonstrates that the accident occurred because of a conscious disregard of foreseeable consequences or a gross omission amounting to recklessness, penal liability cannot be inferred merely because an unfortunate incident occurred. The distinction between an inevitable industrial mishap and criminal negligence cannot be obliterated.

77. This Court also finds substance in the contention that the statutory requirements governing prosecution under the Environment (Protection) Act were not examined in their proper perspective by the courts below. While the complainant had issued notice under Section 19 of the Act,



the learned courts appear to have treated the expiry of sixty days as the sole determinative factor for maintaining the complaint. They omitted to examine whether the complaint independently satisfied the mandatory ingredients of Section 16 concerning offences by companies, whether the petitioner answered the description of a person directly in charge of and responsible for the conduct of the business giving rise to the alleged offence, and whether there existed any material demonstrating consent, connivance or neglect on his part. These jurisdictional issues were fundamental to the maintainability of the prosecution but unfortunately remained substantially unaddressed.

78. The learned Magistrate, while framing charges, was considerably influenced by the broader constitutional obligation of industries to protect the environment and by the observations made by the Hon'ble Supreme Court in M.C. Mehta concerning environmental protection. This Court has no hesitation in reiterating that environmental preservation constitutes an integral facet of the right to life guaranteed under Article 21 of the Constitution. Industrial establishments are unquestionably expected to adhere to the highest standards of environmental compliance. However, constitutional concern for environmental protection cannot justify dilution of the fundamental principles governing criminal liability. The constitutional importance of



environmental regulation cannot substitute the statutory requirement of establishing individual criminal culpability.

79. The impugned revisional order suffers from the same legal infirmity. The revisional Court confined its inquiry principally to the question whether the complainant had served notice under Section 19 of the Environment (Protection) Act and whether the learned Magistrate was justified in proceeding on that basis. The revisional Court unfortunately failed to undertake an independent examination of the essential ingredients of the offences, the absence of specific allegations against the petitioner, the contradictory scientific material and the settled law governing vicarious criminal liability. Consequently, the revisional order merely affirms the conclusions of the learned Magistrate without rectifying the jurisdictional errors apparent in the order framing charge.

80. This Court is conscious of the settled principle that at the stage of framing of charge the Court is not expected to meticulously appreciate the evidence. Equally well settled, however, is the principle that even at that stage there must exist some legally admissible material disclosing the essential ingredients of the alleged offences. The Court is not expected to act as a mere post office transmitting allegations to trial irrespective of their legal sustainability. Where the foundational facts necessary to constitute the offence are





themselves absent, compelling an accused to undergo the ordeal of a criminal trial would amount to abuse of the process of Court.

81. The Hon'ble Supreme Court has repeatedly held that criminal prosecution should not be permitted to continue where the allegations are inherently improbable, where the complaint does not disclose the essential ingredients of the alleged offences, where prosecution is founded upon vague and omnibus allegations, or where continuation of proceedings would amount to misuse of judicial process. The present case, insofar as the petitioner is concerned, squarely falls within these well-recognized parameters warranting exercise of inherent jurisdiction under Section 482 Cr.P.C.

82. Before parting, this Court also considers it appropriate to notice that by virtue of the Jan Vishwas (Amendment of Provisions) Act, 2023, the penal consequences earlier contemplated under Sections 15 and 16 of the Environment (Protection) Act have undergone substantial legislative transformation and the scheme of prosecution has been replaced by a regime of civil penalties. Although the alleged occurrence pertains to a period prior to the amendment and this Court does not rest its conclusion solely upon the legislative change, the amendment unmistakably reflects the legislative policy of decriminalization in respect of contraventions under the Act. The Supreme Court has





consistently recognized that where subsequent legislation mitigates the rigour of criminal consequences, such beneficial legislative developments may legitimately be taken into consideration while exercising inherent jurisdiction, particularly where the prosecution itself suffers from serious foundational defects.

83. Viewed from every conceivable angle, whether from the standpoint of the absence of specific allegations, the inapplicability of vicarious liability, the contradictory scientific evidence, the lack of material establishing rashness or negligence, the statutory requirements under the Environment (Protection) Act or the settled principles governing exercise of inherent jurisdiction, this Court is left with no manner of doubt that the continuation of criminal proceedings against the present petitioner would amount to permitting the criminal process to be employed for a purpose wholly alien to the administration of justice.

84. The inherent powers preserved under Section 482 Cr.P.C. are intended to prevent precisely such situations where the process of the Court is invoked despite the absence of the minimum legal foundation necessary for criminal prosecution. The power is extraordinary, but so are the circumstances warranting its exercise. To compel the petitioner to undergo the rigours of a criminal trial extending over decades despite the glaring legal deficiencies noticed



hereinabove would not advance the cause of justice; rather, it would perpetuate injustice under the guise of criminal process.

ORDER

85. Consequently, the present Criminal Miscellaneous Petition deserves to succeed and is hereby allowed.

86. The order dated 15.11.2016 passed by the learned Additional District Judge No.1, Chittorgarh in Criminal Revision No.56/2011 affirming the order dated 26.09.2011 passed by the learned Additional Chief Judicial Magistrate No.2, Chittorgarh in Criminal Regular Case No.210/2008, whereby charges came to be framed against the present petitioner for offences under Sections 278, 285, 287, 290 and 336 of the Indian Penal Code read with Sections 15 and 16 of the Environment (Protection) Act, 1986, are hereby quashed and set aside.

87. Consequently, all criminal proceedings arising therefrom, insofar as they relate to the present petitioners, stand quashed.

88. Pending applications, if any, also stand disposed of.

89. Before parting, it is considered necessary to clarify that the present judgment is confined exclusively to the question of criminal liability of the petitioner and the maintainability of the impugned criminal proceedings. The findings recorded herein shall not be construed as an adjudication upon, or as





extinguishing, any independent civil rights or liabilities which may arise out of the alleged occurrence. Nothing contained in this judgment shall preclude or proscribe the complainant, or any other person claiming to have suffered loss, injury or damage on account of the alleged incident, from pursuing such civil remedies as may be available in law against the Company and/or any other person legally responsible, including proceedings for compensation or damages, strictly in accordance with law and within the permissible legal limits. Such claims, if instituted, shall be decided independently on their own merits, uninfluenced by the observations made in the present judgment, which are confined solely to the criminal proceedings under challenge

(FARJAND ALI),J

85/Mamta Tak/330