



In *Pratap Lal Teli Vs. The State of Maharashtra & Ors.*^[1],

the Hon'ble High Court of Bombay comprising of Justice Bharati Dangre dismissed the application filed by Pratap Lal Teli (*herein-after referred to as 'Appellant'*). The application was filed for registering FIR against Kumar Mangalam Birla, D Bhattacharya & KK Maheshwari (*herein-after referred to as 'Respondents'*) for violating the Environment Protection Act, 1986 ("Act"). The single-judge bench did not find any merit in the contention raised by the Applicant and held that provisions of the Act would override the provisions of the Code of Criminal Procedure, 1973 ("CrPc").

BACKGROUND

The Appellant alleged that the Respondents started illegal construction of commercial and IT building in the South Mumbai Worli Area without taking clearance from the State Environment Impact Assessment Authority (SEIAA) under the Environmental Impact Assessment (EIA) notification of 2006^[2].

Therefore, the Appellant filed a complaint under section 156(3) of the CrPc seeking police investigation for the offences committed under Section 420, 120-B and 187 of Indian Penal Code, 1860 read with section 15 of the Act.

After

analyzing the contention raised by the Appellant, the metropolitan magistrate rejected the complaint because of the barrier contained in Section 19 of the Act.

Section 19 of the Act states that:

No court shall take cognizance of any offence under this Act except on a complaint made by-

(a) the Central Government or any authority or officer authorised in this behalf by that Government, or

(b) any person who has given notice of not less than

sixty days, in the manner prescribed, of the alleged offence and of his intention to make a complaint, to the Central Government or the authority or officer authorised as aforesaid.

Aggrieved by the order of the metropolitan magistrate,

an appeal was filed before the session judge but the same was also dismissed

by
an order dated December 12, 2018.
Finally, the issue was raised before the Hon'ble High Court of Bombay where the counsel for the Appellant submitted that offences mentioned under Section 15 of the Act are non-cognizable whereas they would be classified as cognizable if they are tried under part-II of Schedule-I of CrPc.
The Appellant also argued that if anyone violates the provision of the Act, then it prescribes a penalty of imprisonment for a period of 5 years or a fine which may extend up to Rs. 5 Lakhs or both for violating the pro. According to this, the said case would fall under the ambit of cognizable offence which is triable by the Magistrate Court of First Class.
The counsel for the Respondents supported the order passed by the Metropolitan Magistrate stating that the Applicant is not an interested party who has filed the Complaint only with a sole motive to harass the Respondents.
It was further added that no environment clearance was required as per Environment Impact Assessment Notification, 2006 because the total construction area was less than 20000 square meters. The relevant authorities like SEIAA, SEAC (State Expert Appraisal Committee), the environment department and the police authority were already updated about the construction on the site and thus, Respondents are not guilty of any violation of the law.

ISSUE
Whether a private person has the right to file a complaint under Section 19 of the Act?

FINDINGS OF THE COURT
After listening to the counsels of both the parties, the Hon'ble High Court stated that failing to comply with Section 15 of the Act may attract punishment with an imprisonment for a term which may extend up to 5 years and if the failure continues beyond the period of 1 year from the date of conviction, then punishment may extend to imprisonment for a period up to 7 years. Cognizance of offence can only be taken as per the rules mentioned under Section 19 of the Act where the complaint is filed by the Central Government or any authority or officer authorized on behalf of the Central Government. Another method of taking cognizance is by filing a complaint by a person who has given notice of not less than 60 days to the Central Government or the authority or officer authorized on behalf of the Central Government. Hon'ble High Court has placed reliance & cited the judgment of Patna High Court in Imamullah v. State of Bihar & Ors.[3]and

observed that no such complaint was filed by the public servant as mentioned under Section 19 of the Act. Hence, Learned Magistrate could not have taken cognizance of the offence under Section 15 of the Act. Therefore, order taking cognizance

of offence under Section 15 of the Act is set aside.

DECISION

As per the settled position of law, an Appellant is a private person and he has no right to file an FIR with the police disclosing the cognizable offence committed by the accused under Section 15 of the Act. The Court further stated that the decision of the metropolitan magistrate and the Session Court of not entertaining the complaint of the Appellant cannot be

questioned and the criminal application is dismissed with no order as to costs.

CONCLUSION

In 1972, international issues on the environment were discussed all over the world and it resulted in the formation of a special act

for the protection of the environment in India. The Environment (Protection) Act, 1986 is an act enforced for safeguarding the environment and the same has

been passed to give effect to the decision taken at the United Nations Conference on the Human Environment held in Stockholm in which India was the signatory. Provisions of the Act cannot be challenged as it is in compliance with the rules and laws formed at the International Conference held in Stockholm.

The Court was correct in dismissing the appeal of the Appellant as the Act gives the power to the Central Government to take such measures as it deems fit & necessary for the purpose of protecting and improving the quality of the environment and preventing and abetting environmental pollution.

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- [\[1\] MANU/MH/3130/2019](#)
 - [\[2\] environmentwb.gov.in/pdf/EIA%20Notification,%202006.pdf](#)
 - [\[3\] MANU/BH/0747/2016](#)

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