

Court No. - 45

Case :- CRIMINAL MISC. WRIT PETITION No. - 8802 of 2023

Petitioner :- Mohd. Majeed

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Bhriguram Ji, Shashi Shekhar Maurya

Counsel for Respondent :- G.A., Jai Krishna Upadhyay

Hon'ble Vivek Kumar Birla, J.

Hon'ble Vinod Diwakar, J.

1. Heard Shri Anil Kumar Kamariya, holding brief of Shri Bhriguram Ji, learned counsel for the petitioner, Shri Gaurav Pratap Singh, holding brief of Shri Jai Krishna Upadhyay, learned counsel for the informant, learned AGA for the State-respondents, and perused the record.

2. This writ petition has been filed praying to quash the First Information Report dated 6.8.2022, registered as Case Crime No.1798 of 2022, under section 135 of the Indian Electricity (Amendment) Act, 2003, Police Station Anti Power Theft Police Station Jhansi, District Jhansi.

3. On 6.6.2023, the following order was passed:

"Heard learned counsel for the petitioner, Sri Gaurav Pratap Singh, learned Advocate holding brief of Sri J.K. Upadhyay, learned counsel for the respondent and learned AGA for the State.

The petitioner is aggrieved by the first information report lodged against him under Section 135 of the Electricity (Amendment) Act, 2003.

It is argued on behalf of the contesting respondent and learned AGA that the matter is compounding in nature.

In view of the above, we find that matter requires consideration.

The counsel for the respondent Nos.3, 4 & 5 and learned AGA are granted four weeks' time to file counter affidavit. Rejoinder affidavit, if any, may be filed within two weeks thereafter.

List after expiry of the aforesaid period.

In the meantime, until further orders of this Court or till submission of police report under Section 173(2) of CrPC, whichever is earlier, petitioner shall not be arrested in connection with Case Crime No.1798 of 2022 under Section

135 of Electricity Act, 2003, P.S.- Anti Power Theft Police Station, Jhansi, District- Jhansi, provided he applies for compounding under Section 135 of the Act, 2003"

3. The interim order was granted on the condition that the petitioner shall apply for compounding under section 152 of the Indian Electricity Act, 2003. Learned counsel appearing for the petitioner is not aware of this fact.

4. Learned counsel for the respondents states that if the petitioner applies for compounding within two weeks from today, his application for compounding shall be considered in accordance with law and appropriate order shall be passed thereon.

5. In view of the aforesaid and without expressing any opinion on merits of the petitioner, this writ petition is disposed of giving liberty to the petitioner to apply for compounding before the competent authority in accordance with law within two weeks from today along with a copy of this order and in the event a compounding application is filed by the petitioner, the same shall be considered and decided by the competent authority in accordance with law within next one week.

6. For a period of three weeks from today, no coercive action shall be taken against the petitioner.

Order Date :- 13.12.2023

Anil K. Sharma

(Vinod Diwakar, J.) (Vivek Kumar Birla, J.)