

Court No. - 46

Case :- CRIMINAL MISC. WRIT PETITION No. - 19059 of 2023

Petitioner :- Kedar Nath Bhandari @ Kedar Natha Mishra

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

Counsel for Petitioner :- Ramesh Kumar Singh, Anil Kumar

Counsel for Respondent :- G.A., Sushil Kumar Pandey

Hon'ble Ashwani Kumar Mishra, J.

Hon'ble Syed Aftab Husain Rizvi, J.

Heard learned counsel for the the petitioner, learned A.G.A. for the respondent State and Sri Sushil Kumar Pandey for the respondent Electricity.

This writ petition has been filed with the prayer to quash the First Information Report registered as Case Crime No.1036 of 2022, under Section 135 of Indian Electricity (Amendment) Act 2003, Police Station- Anti Power Theft (Mirzapur), District- Anti Power Theft (Mirzapur).

Allegations against the petitioner are of theft of electricity. Correctness or otherwise of the F.I.R. allegations are not required to be examined by us, at this stage, inasmuch as all these issues can be determined at the stage of investigation/trial. Since offence itself is required to be dealt with in accordance with the provisions of the Electricity Act, 2003 (hereinafter referred to as the 'Act of 2003') and is compoundable, the remedy of the petitioner would be to pursue the course available under the Act of 2003. Protection under Section 41-A Cr.P.C. is otherwise available to the petitioner, since the offence carries sentence of below 07 years.

Leaving it open for the petitioner to pursue appropriate remedy available in terms of provisions of the Act of 2003 or to seek appropriate protection under the Code of Criminal Procedure, this writ petition is consigned to records.

Order Date :- 8.12.2023

SP/-