

Court No. - 13

Case :- APPLICATION U/S 482 No. - 10895 of 2023

Applicant :- Shyam Ji Pandey

Opposite Party :- State Of U.P. Thru. Prin.Secy. Home And 2 Others

Counsel for Applicant :- Santosh Kr. Yadav Warsi, Jitendra Kumar Singh

Counsel for Opposite Party :- G.A., Aprajita Bansal

Hon'ble Karunesh Singh Pawar, J.

Heard learned counsel for the petitioner and learned A.G.A. for the State-respondents as well as Ms. Nandini Verma holding brief of Ms. Aprajita Bansal, learned counsel for respondent No.3.

In view of the proposed order being passed, notices to respondent No.2 is dispensed with.

By way of this petition, the petitioner has prayed for quashing of the entire proceedings of S.T. No.1588/2023 pending before the Court of Additional District Judge 4th/E.C. Act, Lucknow arising out of Case Crime No.855/2019, under Section 135 of Indian Electricity Act (Amendment 2003) as well as the summoning order dated 18.04.2023.

Learned counsel for the petitioner submits that F.I.R. was lodged with respect to the alleged theft of electricity via Case Crime No.855/2019. After investigation, the charge-sheet has been filed. He further submits that the compounding amount has been deposited by the petitioner and therefore, he prays that after deposition of the compounding amount, the proceedings impugned are liable to be quashed.

Learned counsel appearing for respondent No.3 admits that the petitioner has deposited the compound amount which is evident from Annexure no.4 which is the report of the Executive Engineer.

On due consideration to the fact that compounding fee for the alleged offences has been deposited by the petitioner under

Section 152 of the Electricity Act, 2003. Sub-section (2) of Section 152 of the Electricity Act provides that upon payment of sum of money in accordance with sub-section (1) of Section 152, any person in custody regarding the offences shall be set at liberty and no proceedings shall be instituted or continued against such consumer or person in any other criminal court. The Section 152 of the Electricity Act is extracted below:-

"152. Compounding of offences.-(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), the Appropriate Government or any officer authorised by it in this behalf may accept from any consumer or person who committed or who is reasonable suspected of having committed an offence of theft of electricity punishable under this Act, a sum of money by way of compounding of the offence as specified in the table below:

TABLE

Nature of Service:-Rate of which the sum of money for compounding to be collected per Kilowatt (KW)/Horse Power (HP) or part thereof for Low Tension (LT) supply and per kilo volt Ampere (KVA) of contracted demand for High Tension (HT)

(1)	(2)
1. Industrial Service	twenty thousand rupees;
2. Commercial Service	ten thousand rupees;
3. Agricultural Service	two thousand rupees;
4. Other Services	four thousand rupees:

PROVIDED that the Appropriate Government may, by notification in the Official Gazette, amend the rates specified in the table above.

(2) On payment of the sum of money in accordance with sub-section (1), any person in custody in connection with that offence shall be set at liberty and no proceedings shall be instituted or continued against such consumer or person in any criminal Court.

(3) The acceptance of the sum of money for compounding an offence in accordance with sub-section (1) by the Appropriate Government or an officer empowered in this behalf shall be deemed to amount to an acquittal within the meaning of Section 300 of the Code of Criminal Procedure, 1973 (2 of 1974).

(4) The compounding of an offence under sub-section (1) shall be allowed only once for any person or consumer."

Considering the fact that admittedly the petitioner has deposited the compounding fee and therefore, this Court is the opinion that the proceedings in view of sub-section (2) of Section 152 pending against the petitioner in S.T. No.1588/2023 pending before the Court of Additional District Judge 4th/E.C. Act,

Lucknow arising out of Case Crime No.855/2019 under Section 135 of Indian Electricity Act (Amendment 2003) cannot be permitted to continue.

Accordingly the proceedings of S.T. No.1588/2023 pending before the Court of Additional District Judge 4th/E.C. Act, Lucknow arising out of Case Crime No.855/2019, under Section 135 of Indian Electricity Act (Amendment 2003) as well as the summoning order dated 18.04.2023 are quashed. The petition stands ***allowed***.

Order Date :- 6.11.2023

Saurabh Yadav/-