

GAHC010014192013



2024:GAU-AS:11354

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : Crl.Pet./962/2013

JITEN CHANDRA HAZARIKA and 3 ORS
S/O LT. BIDYA DHAR HAZARIKA PERMANENT R/O LAKHIMI PATH
SANKAR NAGAR, BELTOLA, GHY-28, PRESENLTY RESIDING AT TEZPUR,
DIST. SONITPUR, ASSAM.

2: PRANJAL KATOKY
S/O LT. JITEN KATOKY R/O MAJGAON
BAMUN CHUBURI
TEZPUR
DIST. SONITPUR
ASSAM and PRESENTLY RESIDING AT NORTH LAKHIMPUR
DIST. LAKHIMPUR
ASSAM.

3: RAKTIM CHOUDHURY
S/O SRI CHABIN CHOUDHURY R/O HASTINAPUR
GANESHGURI
GHY-5 AND PRESENLTY RESIDING AT L B ROAD
TEZPUR
DIST. SONITPUR
ASSAM.

4: KARUNA SAIKIA
S/O LT. MUKHYADHAR SAIKIA R/O BAMPARBATIA
PAHUMARA CHUBURI
TEZPUR
DIST. SONITPUR
ASSAM

VERSUS

SMTI JUTIKA GOSWAMI
W/O SRI PABITRA SARMA R/O JONAKI PATH VILL- DAKHIN HAZARAPAR,
P.S. TEZPUR, DIST. SONITPUR, ASSAM.

Advocate for the Petitioner : MR.B D DAS, MR.H K SARMA,MR. D NATH,MR.S DUTTA

Advocate for the Respondent : MR.U N CHETIA, MR S KHOUND,MR.U K BORAH,MR.A SAHAD

BEFORE

HON'BLE MR. JUSTICE ARUN DEV CHOUDHURY

ORDER

21-11-2024

- 1.** The present petition is filed by four officers of the Assam Power Distribution Company Limited (for short, APDCL). However, none appears for them.
- 2.** As Mr. P.N.Goswami, learned Standing counsel, APDCL is present in the Court, this Court has requested him to be appeared in this case. Accordingly, heard him on the question of legal issues.
- 3.** The present petition is filed under Section 482 read with Section 397 of the Code of Criminal Procedure, 1973 for quashment of the proceeding of Complaint Case being CR Case No. 162/2013 and the order dated 08.10.2013 passed by the learned Additional Chief Judicial Magistrate, Sonitpur, Tezpur, whereby having found prima facie case against the accused persons, the learned Court below issued process under Sections 420/468/471/506/34 of IPC.
- 4.** The basic grievances raised in said CR Case No. 162/2013 are quoted herein below:-

“That the complainant took an electricity supply connection in her name at her premises at Hatipilkhana, Tezpur from Tezpur Electrical Circle under APDCL bearing Consumer No. 003000020851. Since then she has been paying all the electricity dues regularly. The complainant used to pay average Rs. 150/- to Rs. 160/- per month as the monthly consumption of the aforesaid premises is very low i.e. only 3 to 5 units per month. On 01.04.2013, the complainant received a bill for an amount of Rs. 572/- against her meter No. CL-JG showing an unbelievable reading of 73 units and when she enquired the same with the authorities, she was informed that they have

considered her meter to be a dead meter. It is pertinent to mention that the meter was functioning properly at that time and it is still in running condition. Although the complainant intimated the matter before the concerned APDCL authorities, they did not take any action, rather demanded to pay the bill amount or otherwise threatened that the electricity supply would be disconnected. Subsequently, on 01.05.2013 also by concealing the actual meter reading, the Accused Persons issued another bill for Rs. 552/- considering consumption of 71 units with an intention to cheat her. As the running meter of the complainant has been repeatedly shown as dead meter, on 29.05.2013, the complainant got her meter examined by one Shri Jayant Choudhury, Meter Reader and he certified the meter to be a good meter and showing the total meter reading of the meter as 438 units. After that only, the complainant came to know that the Accused Persons have collected two months electricity bill from her by cheating and forgery.

The Accused Persons have misappropriated Rs. 1100/- by sending forged bills on 01.04.2013 and 01.05.2013 by showing her good meter to be a dead meter.

Therefore the complainant prays before this Hon'ble Court to register a case against the Accused Persons considering issuance of forged bill to the complainant and misappropriation of about Rupees one thousand by committing fraud by the Accused Persons and to take action in the matter."

5. After perusal of the record, Mr. Goswami, learned Standing counsel APDCL, has brought to the notice of this Court by referring to the Annexure-9 in this petition that the defective bills were rectified by the Corporation and the same was intimated to the complainant by its communication dated 07.12.2013.

The aforesaid communication is quoted herein below:-

"To

*Mrs. Jutika Goswami,
Hatipilkhana, Tezpur
Cons. No. 20851.*

Sub: Regarding the energy bills served to you for the period (1/3/13-1/4/13 & 1/4/13-1/5/13)

Dear Madam,

With reference to the above, I would like to inform you that the bills served to you for

the month of March/13 & April/13 ON THE BASIS OF Load factor due to very low consumption showed by the meter in comparison to the connected load as declared by you in the energy bill is scrutinized and found erroneous for that period.

Hence, your bill is rectified as per actual meter reading for that period.

Yours faithfully,

*Dy. Manager,
Tezpur Electrical Sub-Division-I,
APDCL, CAR, Tezpur "*

6. In view of the aforesaid, the learned counsel for the complainant submits that as the rectification is done, the complainant shall not be interested to proceed with the aforesaid complaint case.

7. In view of the aforesaid reason, the proceeding of said CR Case No. 162/2013 and the impugned order dated 08.10.2013 passed by the learned Additional Chief Judicial Magistrate, Sonitpur, Tezpur, stand set aside and quashed inasmuch as this Court of the view that though admittedly there is some defects but no criminality and inducement on the part of the petitioners can be attributed in the given facts of the present case.

8. Accordingly, the present petition stands disposed of.

JUDGE

Comparing Assistant