

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 1028 of 2015

- Rahul Agrawal S/o Krishna Agrawal, Aged About 20 Years R/o Pathalgaon, Jashpur Road, Near Suklal Garage, P.S.- Pathalgaon, Civil & Revenue Distt. Jashpur, Chhattisgarh

---- Applicant
in jail

Versus

- State Of Chhattisgarh Through Electricity Distribution Company Ltd. Sitapur, Distt. Surguja, Chhattisgarh

---- Respondent

CRR No. 1029 of 2015

- Rahul Agrawal S/o Krishna Agrawal, Aged About 20 Years R/o Pathalgaon, Jashpur Road, Near Suklal Garage, P.S.- Pathalgaon, Civil & Revenue Distt. Jashpur, Chhattisgarh

---- Applicant
in jail

Versus

- State Of Chhattisgarh Through Electricity Distribution Company Ltd. Sitapur, Distt. Surguja, Chhattisgarh

---- Respondent

CRR No. 1030 of 2015

- Rahul Agrawal S/o Krishna Agrawal, Aged About 20 Years R/o Pathalgaon, Jashpur Road, Near Suklal Garage, P.S.- Pathalgaon, Civil & Revenue Distt. Jashpur, Chhattisgarh

---- Applicant
in jail

Versus

- State Of Chhattisgarh Through Electricity Distribution Company Ltd. Sitapur, Distt. Surguja, Chhattisgarh

---- Respondent

CRR No. 1031 of 2015

- Rahul Agrawal S/o Krishna Agrawal, Aged About 20 Years R/o Pathalgaon, Jashpur Road, Near Suklal Garage, P.S.- Pathalgaon, Civil & Revenue Distt. Jashpur, Chhattisgarh

---- Applicant
in jail

Versus

- State Of Chhattisgarh Through Electricity Distribution Company Ltd. Sitapur, Distt. Surguja, Chhattisgarh

---- Respondent

CRR No. 1032 of 2015

- Rahul Agrawal S/o Krishna Agrawal, Aged About 20 Years R/o Pathalgaon, Jashpur Road, Near Suklal Garage, P.S.- Pathalgaon, Civil & Revenue Distt. Jashpur, Chhattisgarh

---- Applicant
in jail

Versus

- State Of Chhattisgarh Through Electricity Distribution Company Ltd. Sitapur, Distt. Surguja, Chhattisgarh

---- Respondent

CRR No. 1033 of 2015

- Rahul Agrawal S/o Krishna Agrawal, Aged About 20 Years R/o Pathalgaon, Jashpur Road, Near Suklal Garage, P.S.- Pathalgaon, Civil & Revenue Distt. Jashpur, Chhattisgarh

**---- Applicant
in jail**

Versus

- State Of Chhattisgarh Through Electricity Distribution Company Ltd. Sitapur, Distt. Surguja, Chhattisgarh

---- Respondent

CRR No. 1034 of 2015

- Rahul Agrawal S/o Krishna Agrawal, Aged About 20 Years R/o Pathalgaon, Jashpur Road, Near Suklal Garage, P.S.- Pathalgaon, Civil & Revenue Distt. Jashpur, Chhattisgarh

**---- Applicant
in jail**

Versus

- State Of Chhattisgarh Through Electricity Distribution Company Ltd. Sitapur, Distt. Surguja, Chhattisgarh

---- Respondent

CRR No. 1035 of 2015

- Rahul Agrawal S/o Krishna Agrawal, Aged About 20 Years R/o Pathalgaon, Jashpur Road, Near Suklal Garage, P.S.- Pathalgaon, Civil & Revenue Distt. Jashpur, Chhattisgarh

**---- Applicant
in jail**

Versus

- State Of Chhattisgarh Through Electricity Distribution Company Ltd. Batauli, Distt. Surguja, Chhattisgarh

---- Respondent

CRR No. 1036 of 2015

- Rahul Agrawal S/o Krishna Agrawal, Aged About 20 Years R/o Pathalgaon, Jashpur Road, Near Suklal Garage, P.S.- Pathalgaon, Civil & Revenue Distt. Jashpur, Chhattisgarh

**---- Applicant
in jail**

Versus

- State Of Chhattisgarh Through Electricity Distribution Company Ltd. Sitapur, Distt. Surguja, Chhattisgarh

---- Respondent

CRR No. 1037 of 2015

- Rahul Agrawal S/o Krishna Agrawal, Aged About 20 Years R/o Pathalgaon, Jashpur Road, Near Suklal Garage, P.S.- Pathalgaon, Civil & Revenue Distt. Jashpur, Chhattisgarh

**---- Applicant
in jail**

Versus

- State Of Chhattisgarh Through Electricity Distribution Company Ltd. Sitapur, Distt. Surguja, Chhattisgarh

---- Respondent

CRR No. 1038 of 2015

- Rahul Agrawal S/o Krishna Agrawal, Aged About 20 Years R/o Pathalgaon, Jashpur Road, Near Suklal Garage, P.S.- Pathalgaon, Civil & Revenue Distt. Jashpur, Chhattisgarh

**---- Applicant
in jail**

Versus

- State Of Chhattisgarh Through Electricity Distribution Company Ltd. Sitapur, Distt. Surguja, Chhattisgarh

---- Respondent

CRR No. 1039 of 2015

- Rahul Agrawal S/o Krishna Agrawal, Aged About 20 Years R/o Pathalgaon, Jashpur Road, Near Suklal Garage, P.S.- Pathalgaon, Civil & Revenue Distt. Jashpur, Chhattisgarh

**---- Applicant
in jail**

Versus

- State Of Chhattisgarh Through Electricity Distribution Company Ltd. Batauli, Distt. Surguja, Chhattisgarh

---- Respondent

CRR No. 1040 of 2015

- Rahul Agrawal S/o Krishna Agrawal, Aged About 20 Years R/o Pathalgaon, Jashpur Road, Near Suklal Garage, P.S.- Pathalgaon, Civil & Revenue Distt. Jashpur, Chhattisgarh

**---- Applicant
in jail**

Versus

- State Of Chhattisgarh Through Electricity Distribution Company Ltd. Batauli, Distt. Surguja, Chhattisgarh

---- Respondent

For applicant : Shri Awadh Tripathi, Advocate.

For Respondent/State : Shri Vivek Sharma, Govt. Advocate.

Hon'ble Shri Justice Pritinker Diwaker

CAV Order

11/12/2015

As common question of law is involved in all these cases, with the consent of the parties, they are being disposed of by this common order.

02. The applicant herein is an accused in several cases under the provisions of Electricity Act, 2003 and Indian Penal Code. In all the cases, the applicant filed applications under Section 167(2) CrPC for releasing him on bail as the charge sheet could not be filed by the prosecution within 60 days from the first date of remand of the applicant. The Special Judge has rejected the applications filed by the applicant solely on the ground that the application under Section 167(2) CrPC cannot be filed before the Special Court.

03. Counsel for the applicant submits that the orders impugned have been passed in a mechanical manner and without application of mind. He submits that as per Sections 153 and 155 of the Electricity Act, 2003, Special Court has been constituted to try the offences under the provisions of Electricity Act and only the Additional Sessions Judge can be appointed as Special Judge and it is the Special Judge alone who is under an obligation to decide the application filed under Section 167(2) of Electricity Act. He further submits that as per Section 155 of the Electricity Act, 2003, all the provisions of Code of Criminal Procedure are applicable to the proceedings before the Special Court and therefore, it is the Special Court who ought to have decided the application filed under Section 167(2) CrPC.

He placed his reliance on the decision of the Supreme Court in the matter of ***State of Tamil Nadu Vs. V. Krishnaswami Naidu and another, 1979 Cri.L.J. 1069***, and the order of the Kerala High Court passed in the matter of ***M.K. Ayoob and others Vs. Superintendent, Customs Intelligence Unit, Cochin and another, 1984 Cri.L.J 949***.

04. Counsel appearing for the State also submits that all the provisions of CrPC are applicable to the Special Court as well and therefore, the Special Judge ought to have decided the applications filed by the applicant under Section 167(2) CrPC.

05. Considering the provisions of Sections 153 and 155 of the Electricity Act, 2003 and further the fact that the Special Court can exercise all the powers vested with the criminal Court under the Code of Criminal Procedure, the orders impugned are set aside. The matters are remitted back to the Special Judge, Ambikapur (Surguja) with a direction to decide the applications filed by the applicant under Section 167(2) CrPC afresh in accordance with law as expeditiously as possible.

Sd/

(Pritinker Diwaker)

Judge