

**Sr. No. 237
IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM No. M-41295 of 2014
Date of Decision: 02.11.2015**

Joginder Singh Bhullar

--Petitioner

Vs

State of Punjab and another

--Respondents

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present : Mr. Upender Prasher, Advocate,
for the petitioner.

Mr. K.D.Sachdeva, Additional A.G.Punjab.

Ms. J.K.Gurna, Advocate,
for respondent No.2.

RAMESHWAR SINGH MALIK J. (ORAL)

The petitioner seeks quashing of impugned FIR No. 246 dated 26.06.2014 under Section 135 of Electricity Act, 2003, registered at Police Station Anti Power Theft Verka, Amritsar, District Amritsar and consequential criminal proceedings arising therefrom.

Notice of motion was issued.

Vide order dated 31.08.2015, petitioner sought time to approach respondent No.2 for getting the offence compounded.

Learned counsel for the petitioner has handed over a bank draft dated 02.11.2015, amounting to Rs. 11,350/- to the learned counsel for the respondent-Board in the Court today towards compounding charges.

Learned counsel for the parties are ad idem that the offence allegedly committed by the petitioner was compoundable and the same has stood compounded because the petitioner has paid the

entire amount including the compounding fee.

Learned counsel for respondent No.2-complainant further submits that she has got clear instructions from the respondent-Department to say that since the offence has been compounded between the parties, she has got no objection in case the instant petition is allowed and the impugned FIR is ordered to be quashed.

Having heard the learned counsel for the parties and after going through the record of the case, this Court is of the considered opinion that it is a fit case for exercising the inherent jurisdiction of this Court under Section 482 Cr.P.C., so as to secure the ends of justice.

The above-said view taken by this Court also finds support from the judgment of the Hon'ble Supreme Court of India in **Shiji @ Pappu and others versus Radhika and another, 2012 (1) RCR (criminal) 9** and also from the larger Bench judgment of this Court in **Kulwinder Singh and others versus State of Punjab and another reported as 2007 (3) RCR (criminal) 1052**. The observations made by the Hon'ble Supreme Court in para 13 of the judgment in **Shiji's** case (supra), which can be gainfully followed in the present case, read as under:

“It is manifest that simply because an offence is not compoundable under Section 320 IPC is by itself no reason for the High Court to refuse exercise of its power under Section 482 Cr.P.C. That power can in our opinion be exercised in cases where there is no chance of recording a conviction against the accused and the entire exercise of a trial is destined to be an exercise in

futility. There is a subtle distinction between compounding of offences by the parties before the trial Court or in appeal on one hand and the exercise of power by the High Court to quash the prosecution under Section 482 Cr.P.C. on the other. While a Court trying an accused or hearing an appeal against conviction, may not be competent to permit compounding of an offence based on a settlement arrived at between the parties in cases where the offences are not compoundable under Section 320, the High Court may quash the prosecution even in cases where the offences with which the accused stand charged are non-compoundable. The inherent powers of the High Court under Section 482 Cr.P.C. are not for that purpose controlled by Section 320 Cr.P.C. Having said so, we must hasten to add that the plenitude of the power under Section 482 Cr.P.C. by itself, makes it obligatory for the High Court to exercise the same with utmost care and caution. The width and the nature of the power itself demands that its exercise is sparing and only in cases where the High Court is, for reasons to be recorded, of the clear view that continuance of the prosecution would be nothing but an abuse of the process of law. It is neither necessary nor proper for us to enumerate the situations in which the exercise of power under Section 482 may be justified. All that we need to say is that the exercise of power must be for securing the ends of justice and only in cases where refusal to exercise that power may result in the abuse of the process of law. The High court may be justified in declining interference if it is called upon to appreciate evidence for it cannot assume the role of an appellate court while dealing with a petition under Section 482 of the Criminal Procedure Code. Subject to the above, the High Court will have to consider the facts and circumstances of each case to determine

whether it is a fit case in which the inherent powers may be invoked."

The law laid down by the Hon'ble Supreme Court in **Shiji's** case (supra) has been further reiterated by the Hon'ble Supreme Court in its later judgments including in the cases of **Jayrajsinh Digvijaysinh Rana v. State of Gujarat and another, 2012 (12) SCC 401, Gold Quest International Private Limited v. State of Tamil Nadu & Ors., 2014 (4) RCR (Crl) 206, Manohar Singh v. State of Madhya Pradesh and another, 2014 AIR (SC) 3649 and Narinder Singh and others v. State of Punjab and another, 2014 (6) SCC 466.**

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned and to secure the ends of justice, FIR No.246 dated 26.06.2014 registered under Section 135 of Electricity Act, 2003 at Police Station Anti Power Theft Verka, Amritsar, District Amritsar and the consequential proceedings arising therefrom are ordered to be quashed, however, qua the petitioner only.

Resultantly, with the above-said observations made, the instant petition stands allowed.

(RAMESHWAR SINGH MALIK)
JUDGE

02.11.2015
vandana