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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision: February 04, 2015

+ CRL.M.C. 3755/2013 and Crl. M.A. No. 13621/2013

SMT GOPAL DEVI

..... Petitioner

Through: Mr. A.K. Pandey with Mr. Vikas
Sharma, Advocates

versus

B S E S RADHANI POWER LTD & ORS

..... Respondents

Through: Mr. Rishab Raj Jain, Advocate for
Respondent No. 1
Ms. Nishi Jain, Additional Public
Prosecutor for State

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT

(ORAL)

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In complaint under Section 135 of the Electricity Act, 2003, petitioner has been summoned as an accused vide impugned order of 29th July 2013 after giving a *Show Cause Notice* to her and upon receiving her reply to the *Show Cause Notice*.

At the hearing, learned counsel for petitioner assails the impugned order on the ground that petitioner is not owner of the premises in question as it was sold by petitioner to respondent no. 2 in November, 2003 whereas the spot inspection was conducted by BSES in the year 2008. Learned counsel for petitioner has drawn the attention of this Court

to the documents filed alongwith the rejoinder to substantiate the plea of selling of the subject property to respondent no. 2. Thus, it is submitted that merely because petitioner is shown in the photographs, would not justify the summoning of petitioner as accused and petitioner has been summoned because main accused i.e. respondent no. 2 is absconding.

Learned counsel for first respondent-BSES Rajdhani Power Limited submits that the instant case is of direct theft of electricity and not only petitioner is shown in the photographs but she has misguided respondent no. 1 by giving her name as Smt. Kiran Kumari i.e. respondent no. 2. Learned counsel for first respondent had submitted that the impugned order deals with the pleas taken herein and there is no infirmity in the impugned order.

Upon hearing and on perusal of the impugned order, the reply filed to this petition and rejoinder thereto, I find that the documents of sale of subject property by petitioner to respondent no. 2 are photocopies and the same are required to be proved before the trial court and on its basis the impugned order cannot be nullified. In fact, the impugned order is well-reasoned order. I do not find any palpable error.

There is no substance in this petition and it is accordingly dismissed while not commenting upon merits of this case lest it may prejudice either side before the trial court.

(SUNIL GAUR)
JUDGE

FEBRUARY 04, 2015

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