

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 475 of 2016**

Raghunath Gupta S/o Suklal Gupta Aged About 65 Years R/o Village
Hasuva, Tahsil Kasdol Civil & Revenue District Baloda Bazar
Chhattisgarh

---- Applicant

Versus

Chhattisgarh State Electricity Distribution Company Limited Sub
Division Office Kasdol, District Baloda Bazar Chhattisgarh, Through
Authorised H. N. Sahu, Sub Engineer Chhattisgarh State Electricity
Distribution Company Limited

---- Respondent

For Applicant:

Mr. C.R. Sahu, Advocate

For Respondent :

Mr. Anumesh Shrivastava, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****13.06.2016**

1. The present revision has been preferred challenging the order dated 28.04.2016 passed by the Special Judge (Electricity Act) and First Additional Sessions Judge, Baloda Bazar whereby a charge has been framed against the present Applicant under Section 135(A) of the Chhattisgarh Electricity Act, 2003.

2. Learned Counsel for the Applicant submits that prima facie the impugned order is bad in law to the extent that there is no iota of evidence brought out against the Applicant in the proceeding drawn for

framing of charge and since the charge itself has not been established, framing of charge for the offence punishable under Section 135(A) is bad in law and deserves to be quashed and the Applicant be absolved from the charge against him.

3. He further submits that even from the statement of the witnesses recorded in the Court before charge was framed, it is evidently clear that he is not the person who had gone to the spot for inspection, therefore the case against the present Applicant can not said to be made out or established *prima facie*.

4. Learned Counsel appearing on behalf of the Respondent on advance copy submits that the statement has been recorded prior to the framing of charge. In the said statement the officer concerned has specifically deposed giving details of the persons who had inspected the spot at the time of inspection on 05.08.2013 and which by its *prima facie* establishes the case against the present Applicant having committed the offence of theft by directly taking electricity from the low tension wire going over and above premises of the present Applicant by hooking. From the materials available on record particularly the statement of the witnesses examined prior to the framing of charge it *prima facie* has all the ingredients of an offence punishable under Section 135(A) of the Electricity Act. Even otherwise at the time of framing of charge the Court need not consider the entire evidence of the prosecution threadbare and this requires whether there is *prima*

facie the case is made out, which may at best even only give rise to suspicion, and even on the basis of suspicion charges can be framed.

5. He further submits that even if the prosecution is able to make out a case of suspicion against the present Applicant, that is more than sufficient for framing of charge. Thus, in the instant case no illegality or error has been committed by the Court below in framing of charge against the Applicant in the given facts of the case.

6. Considering the total facts and circumstances of the case, particularly taking into consideration the statement of the witnesses examined before framing of charge i.e. H. N. Sahu, Assistant Engineer who in his statement has specifically given details of the person who had inspected the premises of the Applicant and the date on which it was inspected and also has brought before the Court below the Panchnama prepared on the date of inspection, this Court is of the opinion that *prima facie* there has been sufficient material brought before the Court below for framing of the charge against the present Applicant.

7. So far as the interference by the High Court invoking the provision under revisional jurisdiction is concerned, the law in this regard is well settled by the Hon'ble Supreme Court in the matter of **Amit Kapoor Vs. Ramesh Chander and Anr** reported in (2012) 9 SCC 460. The Supreme Court has very clearly laid down the principle that inherent as well as revisional jurisdiction should be exercised cautiously. If the jurisdiction under the Code in relation to quashing of an FIR is circumscribed by the

factum and caution afore noticed, in that event, the revisional jurisdiction, particularly while dealing with framing of a charge, has to be even more limited. At the initial stage of framing of a charge, the court is concerned not with the proof but with a strong suspicion that the accused has committed an offence, which, if put to trial, could prove him guilty. All that the court has to see is that the material on record and the facts would be compatible with the innocence of the accused or not. The final test of guilt is not be applied at that stage.

8. In the instant case, the Order passed by the Court below clearly reflects that prima facie the Court has found sufficient material for framing charges against the present Applicant.

9. Relying upon the judgement in case of **Amit Kapoor and Supra** when prima facia a case is made out by the Prosecution, this Court should not interfere with the same at the stage of framing of charge Consequently, the Criminal Revision is dismissed being devoid of merit.

Sd/-
(P. Sam Koshy)
JUDGE