

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL REVISION APPLICATION NO.200 OF 2016

Nalutai w/o. Bhaskar Chopade ..Applicant
(Sau. N.B. Chopade)
Age. 50 years, Occ. House Hold,
R/o. Jagruti Colony, Vasmata Road,
Parbhani, Dist. Parbhani.

Versus

1. The State of Maharashtra ..Non-applicants
2. Maharashtra State Electricity
Distribution Company, through
Incharge - Deputy Executive Officer,
Flying Squad, Parbhani,
Ajay s/o. Babulal Basniwal,
Age. 35 years, Occ. Service,
R/o. Maharashtra State Electricity
Distribution Company, Parbhani,
Dist. Parbhani.

Mr.S.B. Choudhari, Advocate for the applicant.
Mr.P.N. Kutti, A.P.P. for non-applicant No.1/State.
Mr.P.B. Paithankar, Advocate for non-applicant No.2.

CORAM : Z.A. HAQ, J.

DATED : 01.12.2016

ORAL JUDGMENT :-

. Heard.

02. Rule. Rule made returnable forthwith.

03. The non-applicant No.2 has filed a complaint against the applicant and Digambar Santram Shinde under section 135 of the Electricity Act, 2003, alleging that the seals put on the electric meter fitted in the house occupied by Digambar Santram Shinde are tampered with and there is theft of electricity. The applicant is shown as accused as the meter stands in her name and Digambar Santram Shinde is shown as accused as he is occupying the house where the electric meter is fitted. The applicant filed an application (Exh.45) pointing out that the house in question was owned by the applicant, however, it is sold to Bhamabai Babanrao Shinde and Laxmibai Shantaram Shinde (mother of Digambar Shinde) by sale deed registered on 18th September, 1997 and she is not concerned either with the house in question or electric meter in question and she should be discharged from the prosecution. The application is rejected by the learned Trial Judge by the impugned order.

04. The claim of the applicant that the house in question is sold by her to Bhamabai Babanrao Shinde and Laxmibai Shantaram Shinde by sale-deed registered on 18th September, 1997 is not controverted by non-applicant No.2 - complainant. It is not the case of the non-applicant No.2 complainant that the applicant had been occupying the house in question during the period when the alleged

offence is committed. It is not the contention of the non-applicant No.2/complainant that the applicant has tampered with the seals or is beneficiary of the alleged theft of electricity. Undisputedly, the applicant is shown as accused only because the electric meter stands in her name.

05. In the above facts, I find that the prosecution of the applicant for the offence is unsustainable.

. Hence, the following order :-

- (i) The impugned order is set aside.
- (ii) The application (Exh.45) filed by the applicant before the Trial Court is allowed.
- (iii) The applicant is discharged from the prosecution for the offence punishable under section 135 of the Electricity Act, 2003.
- (iv) Rule made absolute in above terms.
- (v) In the circumstances, parties to bear their own costs.

[Z.A. HAQ,J.]