

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM No. M-37618 of 2015 (O&M)
Date of Decision: 09.02.2016

Raj Kumar Aggarwal

--Petitioner

Versus

State of Haryana & another

--Respondents

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. M.L. Saggar, Sr. Advocate with
Mr. Sunny Saggar, Advocate for the petitioner.

Mr. Vivek Saini, D.A.G., Haryana.

Mr. Pawan Girdhar, Advocate for respondent no.2.

TEJINDER SINGH DHINDSA.J

This order shall dispose of the present petition filed under Section 438 Cr.P.C praying for the grant of anticipatory bail to the petitioner in case F.I.R. No.1300 dated 1.10.2015 under section 135 of the Electricity Act, registered at Police Station, Ambala City.

Learned counsel for the parties have been heard.

F.I.R came to be registered on the complaint of Executive Engineer, Operations of the U.H.B.V.N. Ltd. with regard to burning of an electricity meter and theft of electricity by the present petitioner, who was stated to be running a stone crusher at the relevant point of time. Apparently, the team of the Nigam headed by the Executive Engineer, Operations Division, H.S.E.B, Panchkula had concluded that it is a case of intentional burning of the electricity meter and theft of electricity and had imposed a penalty of Rs.42,23,495/- over a twelve months span. The total demand raised from the petitioner is Rs.49 lacs approximately which is inclusive of compounding charges of Rs.6,80,000/-.

During the course of hearing today, it has gone uncontroverted that an application had been submitted by the petitioner himself dated 3.9.2015 bringing to the notice of the Nigam that the electricity meter had been burnt. Pursuant to such information having been supplied, an investigation was carried out by a team of the Nigam on 9.9.2015. Thereafter, the meter in question has also been examined by the Meter Testing Laboratory at Dhulkot. Apparently, the petitioner was even associated in such proceedings. The findings returned by the team as also the Laboratory prima facie point towards intentional burning of the meter.

Suffice it to observe that the issue with regard to intentional burning of the meter and consequent theft of electricity would be a matter of evidence to be led at the stage of trial.

The direct fall out of the registration of the F.I.R is that the electricity connection to the premises concerned belonging to the petitioner has been disconnected. Even an application submitted by the petitioner for restoration of the electricity connection has not found favour with the Nigam.

Learned senior counsel appearing for the petitioner would bring to the notice of this Court that the previous billings over a span of 12 months were of an amount ranging between Rs.4-4.5 lacs. Learned counsel appearing for the respondent-Nigam does not dispute such billing amount but would clarify that the penalty amounting to Rs.42 lacs approximately is on the strength of a Sales Circular issued by the Nigam.

Learned State counsel, who is upon instructions from ASI Sukhwinder Pal would oppose the present petition by stating that the

petitioner has not joined investigation till date. Upon a specific query having been put to ASI Sukhwinder Pal, who is the I.O in the matter and who is present in Court as regards the need qua the petitioner appearing before him and the nature of investigation to be conducted, he would submit that the recovery of the penalty as also compounding fee of Rs.49 lacs approximately is to be made. That apart, he would submit that the meter in question would also have to be sent to the F.S.L., Madhuban for examination.

In a case of such nature, it would certainly be open for the petitioner to take out appropriate proceedings to challenge the demand and by raising all such grounds that may be available strictly in accordance with law. Joining investigation would in itself not mean that the consumer would be pinned down and would have to pay the entire amount of Rs.49 lacs approximately upfront. This would be more so against the conceded position of fact that for the previous billing cycle of 12 months i.e. for an identical span of time, the billing amount was in the range of Rs.4-5 lacs only. In so far as the sending of burnt meter to the F.S.L is concerned, it has gone uncontroverted that the meter is already in the possession of the Nigam.

The electricity connection in question having already been severed and even an application for restoration of the connection having not found favour, it would not be a case where custodial interrogation of the petitioner would be warranted.

In view of the observations made above, the present petition is disposed of in terms of making the order dated 3.11.2015, passed by this Court as absolute.

Petition disposed of.

(TEJINDER SINGH DHINDSA)
JUDGE

09.02.2016
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