

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.40652 of 2013

Arising Out of PS.Case No. -90 Year- 2013 Thana -MASAURHI District- PATNA

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Ranjeet Kumar @ Ranjit Kumar Son Of Yogendra Vishwakarma Resident
Of Village - Station Road, Masaurhi, P.S.- Masaurhi, District - Patna

.... Petitioner

Versus

1. The State Of Bihar
2. The Secretary, Bihar State Electricity Board, Vidhut Bhawan, Bailey Road, Patna

.... Opposite Parties

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Appearance :

For the Petitioner : Mr. Binod Kumar Singh, Advocate.

For the Opposite Parties : Mr. Shailendra Kumar-1 (APP)

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CORAM: HONOURABLE MR. JUSTICE JITENDRA MOHAN SHARMA
ORAL ORDER

11 03-07-2017 This Criminal Miscellaneous has been filed for quashing the order dated 12.08.2013 passed by the Sub. Divisional Judicial Magistrate, Masaurhi in Masaurhi P.S. Case No. 90 of 2013/ G.R. No. 282 of 2013, whereby and whereunder the learned S.D.J.M. has been pleased to take cognizance against the petitioner and other co-accused for the offence punishable under section 135 of the Indian Electricity Act.

Heard the learned counsel for the petitioner and the learned counsel for the opposite party no.2.

During raid on 18.03.2013 at about 1.30 P.M at New Bharat Studio situated at Taregana Station road it was found that the petitioner was running his studio by putting hook on the LT



line and earlier the line was disconnected and there was dues on him and in this way, by way of committing electric theft caused loss of Rs. 1,10,909/- to the South Bihar Power Distribution Company Limited.

The matter was investigated and after completing investigation charge sheet no. 154/2013 dated 30.05.2013 was submitted and the S.D.J.M. after considering the materials available in the case diary and further on perusal of the FIR passed the impugned order.

On behalf of the petitioner it is submitted that the provisions of the Electricity Act has not been complied with and the Civil Court has got no jurisdiction to entertain the suit or any case or any proceeding in respect of the electricity matter. The matter has not been referred to the Assessing Officer under section 126 of the Act, nor any other provisions has been followed and the cognizance has been taken without applying his judicial mind which is not sustainable in the eye of law. The assessment has to be done by the Assessing Officer under section 126 of the Act or section 154 of the Act by the Special Court, but here no assessment has been done. The jurisdiction of the Special Court is there to take cognizance of the matter but here the S.D.J.M. has passed the impugned order and on that ground the impugned order



is fit to be quashed. The present case is covered by the decision of 'Bhajan Lal's' case. In the present case without following the rules and regulations of the Electricity Act especially sections 126, 127 and 154 of the Act the order has been passed in the mechanical way and as such the same is untenable in the eye of law.

On the other hand, the learned counsel for the opposite party no.2 submits that proper assessment has been done and the petitioner has been intimated vide Annexure- A series to the counter affidavit. In absence of the Special Court, S.D.J.M is authorized to pass the order and as such the impugned order being legal, proper and correct does not require any interference by this Court. Even as per allegation made in the First Information Report prima-facie case is made out for the offence punishable under section 135 of the Electricity Act. Here charge sheet has also been submitted and in the case diary there is sufficient material against the petitioner and others.

Having considered the submissions urged at the Bar, going though the impugned order, grounds taken in this Criminal Miscellaneous, counter affidavit and reply to the counter affidavit, it is manifest that the learned S.D.J.M. after finding sufficient materials against the petitioner to make out prima-facie case under section 135 of the Electricity Act has passed the impugned order.



The allegations made in the First Information Report have been substantiated during investigation and there are sufficient materials on the record to proceed further against the petitioner also. Proper assessment has already been done and there is no violation of provisions of the Electricity Act and further there was no Special Judge and as such the S.D.J.M. has passed the impugned order.

In the result, finding no illegality, incorrectness or impropriety in the impugned order, the same is hereby confirmed and finding no merit in this Criminal Miscellaneous the same is hereby dismissed.

(Jitendra Mohan Sharma, J)

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