

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CR.M.P. No. 1095 of 2013

Anant Narayan Singh, S/o. Umashankar Singh, Aged About 43 Years, R/o. Village -Gerwani, Post & P.S. - Punjipathra, Tahsil & Distt. Raigarh C.G.

---- **Petitioner**

Versus

C.G. Power Distribution Co. Ltd., Through : Assistant Engineer (Rural)
CSPDCL - Raigarh C.G.

-----**Respondent**

For Petitioner	: Mr. Pragalbha Sharma, Advocate
For Respondent	: Mr. Raja Sharma, Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

21/09/2017

Heard.

1. This petition under Section 482 of Cr.P.C. has been brought with prayer to quash the criminal proceeding pending against the petitioner, before the Special Judge (Electricity), Raigarh (C.G.).
2. It is submitted that a complaint of theft of electricity has been filed against the petitioner on the basis of which, he is being prosecuted for offence under Section 135 of Electricity Act, before the Special Court, Raigarh. Petitioner after deposited composition money and other dues and filed an application for compounding of offence. The trial Court rejected his application vide order dated 03.03.2013 stating that the offence against the petitioner being the second one can not be permitted to compound under the provision Section 152(4) of the Electricity Act, 2003, hence the application was dismissed.
3. Counsel for the petitioner submits that on the search made in the premises of the petitioner, two cases of theft of electricity was

separately made on the same date, time and place as the alleged theft was being done from two different electric meters, hence both the offence should be regarded as a single offence. As one of the offence prosecuted against the petitioner has been compounded, hence, this complaint being the part of same offence gives entitlement to the petitioner for compounding of this offence as well. It is submitted that composition money has been accepted by the respondent, hence prayed that composition of offence be allowed and the proceeding against the petitioner be quashed.

4. Counsel for the respondent opposed the petition and the submission made. It is submitted that Section 152 (4) of Electricity Act, 2003 clearly puts a bar for composition of second offence. Even though the search disclosed that theft was being committed from two different meters located in the same premises, but the energy was being consumed in different parts of the same premises and by the different occupants. It is submitted that even if, the respondent company has accepted the amount of composition, the provisions under Section 152 (4) does not permit the composition of offence. For these reasons, it is prayed that petition be dismissed.
5. Counsel for the petitioner placed his reliance on the judgment of High Court of Rajasthan in case of **Manoj Sharma Vs. Jodhpur Vidhyut Vitran Nigam Ltd. Ors.**, reported in **2011 Law Suit (Raj) 1326**. It is also submitted that Section 71 of I.P.C. shall also be applicable in this case.
6. I have heard the learned counsel for the parties and perused the documents placed on record.

7. Admittedly, the date on which, the search was made, it was found by the raiding party that two of the meters located in the premises for reading the consumption of energy were bypassed and theft of electrical energy was committed, which makes two different offence, thus two offence can not be made the part of the same transaction they have to be regarded as two separate offence, committed by the petitioner.
8. Section 152 (4) of Electricity Act, 2003 puts clear bar, that any consumer or any person shall have entitlement to compound offence only once and the facts of this case shows that petitioner is the consumer against whom two cases have been registered by the respondent. After the composition of offence in any of the case, he can not be allowed to compound its offence as it is prohibited under Section 152 (4) of Electricity Act, 2003.
9. In the situation, inherent power under Section 482 can not be exercised to stifle legitimate prosecution as it is held by the Supreme Court in case of **Jantada Dal Vs. H.S. Chaudhary** reported in **(1992) 4 Supreme Court Cases 305**, **State of M.P. Vs. Awadh Kishore Gupta And Ors**, reported in **AIR 2004 SC 517** and in case of **Manjula Sinha Vs. State of U.P.**, reported in **2007 AIR SC 4555**. Hence for these reasons, petitioner is required to submit before the jurisdiction of the trial Court.
10. Accordingly, the instant petition filed under Section 482 of Cr.P.C. is without any substance and it is dismissed accordingly.

Sd/-
(Rajendra Chandra Singh Samant)
Judge