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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 528 OF 2017

Subodh Pande and ors.

.. Applicants

Vs.

The State of Maharashtra and ors.

.. Respondents

Mr. Viral Rathod i/by Bimala Chounal for applicants.

Mr. K. V. Saste, APP for State.

Mr. Satish Kamat for respondent nos.2 and 3.

CORAM: NARESH H. PATIL &
A. M. BADAR, JJ.

DECEMBER 12, 2017.

P.C.

1. Rule. Rule made returnable forthwith. Heard finally by consent of parties.

2. The applicants were prosecuted for an offence punishable under Section 135 of the Electricity Act, 2003, which refers to theft of electricity. The FIR bearing C.R. No. Spcl LAC Electric Crime No. 05 of

2015 came to be registered on 13/1/2015. The squad of the service provider – Reliance Energy (Reliance Infrastructure Limited) visited the hotel premises and noticed that there was a theft of electricity to the tune of Rs.14,10,368/-.

3. The learned counsel appearing for the applicants submits that applicants requested by letter dated 21/8/2015 addressed to the service provider to compound the offence of theft of electricity against them by payment of amount under Section 152(1) of the Electricity Act, 2003. The applicants had unconditionally paid the civil liability of Rs.11,06,367.03 by cheque on 22/4/2015. The applicants declared that it was their first offence of theft of electricity and they have never availed of compounding facility under Section 152 of the Electricity Act in past.

4. Based on the communication made by the applicants and the available record, the Assessing Officer of the Licensee – Reliance Infrastructure Ltd. confirmed the receipt of Rs.3,15,000/- paid by Demand Draft towards the compounding charges applicable for the offence of theft of electricity as per Section 152(1) of the Electricity Act, 2003.

5. The learned counsel appearing for the respondent nos.2 and 3, on instructions, states that in view of the afore-stated development and the statement made on behalf of the applicants, the offence need to be compounded and appropriate order be passed as the applicants had made the necessary payment. The learned counsel has placed on record a copy of the communication dated 28/8/2015 made by the Assessing Officer of the Licensee – Reliance Infrastructure Ltd. addressed to the Authorized Officer, South Division, Vigilance Department, Reliance Infrastructure Ltd., which is taken on record. Paras 4 and 5 of the said communication read as under :-

“4. In view of aforesaid circumstances, you are therefore requested to take note of payment of Compounding charges for the said offence and accordingly he shall be deemed to amount to an acquittal within the meaning of Section 300 of Cr. P. C. 1973 (2 of 1974) as provided under sub-section (3) of Section 152 of the Electricity Act, 2003.

5. Kindly inform the Investigating Officer to finalize the case against the above named person under the provision of law.”

6. We have heard the learned APP.

7. In view of the statement made and the communication placed on record and considering the provisions of Section 152 of the Electricity Act, 2003, we are of the view that the request made by the petitioner needs consideration.

8. We are inclined to allow this application by quashing the subject FIR.

9. The petition is allowed. FIR bearing C.R. No. Spcl LAC Electric Crime No.05 of 2015 registered with the Juhu Police Station for the offence punishable under Section 135 of the Electricity Act, 2003 is hereby quashed.

10. Rule is made absolute in the above terms.

(A. M. BADAR, J.)

(NARESH H. PATIL,J.)