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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP-1557-2012
Date of decision : 24.01.2017**

Punjab State Power Corporation Ltd.

... Petitioner

Versus

M/s Guru Tegh Bahadur Cold Storage and ICE Factory Pvt. Ltd.

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Vinod Chaudhari, Advocate
for the petitioner.

Mr. Manu K. Bandari, Advocate
for the respondent.

AMIT RAWAL, J. (ORAL)

The petitioner-Punjab State Power Corporation Ltd. is aggrieved of the impugned order dated 03.03.2011 (Annexure P-11), whereby the appeal filed under Section 127 of the Electricity Act, 2003 (for short 'the 2003 Act') has been accepted by holding that the appellant was not indulging into theft of electricity from 11 KV electricity line.

Mr. Vinod Chaudhari, learned counsel appearing on behalf of the petitioner submits that the order under challenge is not sustainable as in case of a theft, the procedure under Section 154 of the 2003 Act can be invoked. It is only in case the consumer is found to be indulging in any of the misuse, under the provisions of Section 126 of the 2003 Act, the remedy can be availed. No doubt the criminal case at the instance of the Electricity Board had been lodged, it has resulted into acquittal order which has been

attached by the respondent as Annexure R-3 and there is no appeal against the aforementioned acquittal order.

The factum of acquittal is not disputed by Mr. Manu K. Bandari, learned counsel appearing on behalf of the respondent(s)-consumer.

I have heard the learned counsel for the parties and appraised the paper book and of the view that the procedure and power of Special Court under Chapter (xv) of 2003 Act has been laid down, whereby for entertaining the criminal complaint at the instance of the Electricity Board or supplier, the civil liability can also be determined as per the provisions of sub-Section 6 of Section 154. Once there is an acquittal meaning thereby that the Court did not find it fit to determine a civil liability, therefore, it cannot be a case of theft. Even if, the Divisional Commissioner accepted the appeal under Section 127 of the 2003 Act, yet the Electricity Board would not have been any grouse as there is no challenge to the aforementioned acquittal order. Once there is no civil liability, the Electricity Board cannot raise the demand of theft of electricity overhauling the account.

For the foregoing reasons, I do not find any illegality and perversity in the order under challenge, much less, no ground is made out for interference and accordingly, the present writ petition is dismissed.

24.01.2017

Yogesh Sharma

**(AMIT RAWAL)
JUDGE**

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Whether speaking/reasoned **Yes/ No**

✓

Whether Reportable **Yes/ No**