

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

FAO No. 6398 of 2016 (O&M)

Date of decision: 01.03.2017

Manjit Kaur

... Appellant

versus

Punjab State Power Corporation Limited and another

.... Respondents

**CORAM: HON'BLE MR. JUSTICE G.S. SANDHAWALIA**

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Present: Mr. Gulzar Mohammad, Advocate for the appellant.

**G.S. SANDHAWALIA, J. (ORAL)**

The appellant challenges the order dated 05.08.2016 whereby the Additional District Judge has dismissed the petition under Section 154(5) of Electricity Act, 2003 and upheld the demand of Rs. 69, 549/- which was issued vide memo 1841 dated 27.07.2012 along with Rs. 3,000/- as compounding charges per Kilowatt for the theft of electric energy.

The sole argument which has been raised is that the memo has been issued to Harjit Singh, husband of the appellant and whereas the meter was in the name of the appellant-Manjit Kaur and, therefore, the same was not justifiable. The petition was filed on the ground that the appellant was a resident of C-173, Village Sangal Sohal, District Jalandhar and having electricity connection bearing No. J42/KTC16/1861F. She was paying the electricity bills regularly and the status showed at the meter 'O' means that meter is working properly. The appellant had gone out of station on 20.07.2012. When they came back the servant of the appellant told that officials of respondent-Corporation had checked the meter by using a wire and there was a spark and officials have told that there was some fault in the meter and they would come again and change the meter. The appellant visited the

office of respondents on 23.07.2012 regarding the change of meter and the officials had issued a receipt that they would come and check the meter but no one came. Resultantly, the impugned memo was issued whereby the demand was raised and thereafter the disconnection of electricity connection was done on 06.08.2012. No inspection was done and no report was prepared that she was involved in the energy theft.

The defence of the Corporation was that theft of electricity was being committed by putting the wire on the naked cut and on 20.07.2012 the enforcement staff headed by Er. Joginder Singh had raided the house. Harjit Singh-husband of the appellant was present in the house and he was caught red-handed and thus, the theft was detected which was being done by connecting a black colour 2 C wire in the naked connection of the service line. The meter was not functioning and main switch was put off. They had prepared report No. 17/274 in the presence of her husband and he has signed the same. Resultantly, the demand has been raised. The trial Court framed the following issues.

1. *Whether the demand notice bearing No. 1841 dated 27.07.2012 issued by respondent No.2 to Harjit Singh alias Mohinder Singh for Rs. 69,456/- on the allegations of theft and Rs. 24,000/- as compounding charges, on the basis of which respondents are trying to disconnect the electric connection of the petitioner A/C No. J42/KT16/1861 is illegal, null and void and is liable to set aside? OPP.*
2. *Whether the respondents are liable to replace the meter of the petitioner as per request No. 538900/- dated 23.07.2012 ? OPP.*
3. *Whether the respondents are not entitled to levy any charges on the petitioner for non working/dead/stop of his meter, as prayed for ? OPP.*
4. *Whether the respondents are liable to be restrained from disconnecting the electric connection of the petitioner,*

*as prayed for? OPP.*

5. *Whether the petition is not maintainable in the present form? OPR.*

6. *Whether the petitioner has concealed the true facts from the Court ? OPR.*

7. *Whether the petitioner has filed false and frivolous petition with mala fide petition ? OPR.*

8. *Whether the petitioner has no cause of action to file the present petition ? OPR.*

9. *Whether this Court has no jurisdiction to entertain and decide the present petition ? OPR.*

10. *Whether the petitioner is liable to be burdened with compensatory costs of Rs. 20,000/- under Section 35-A CPC ? OPR.*

11. *Whether the petitioner was committing theft of electric energy and she was caught red handed by the Enforcement Wing headed by the Assistant Executive Engineer ? OPR.*

12. *Relief.*

The appellant examined herself as PW1 whereas DW1 Joginder Singh was examined who had retired in the meantime and he has also submitted his report Ex.D1. Apart from him testimony of Vinod Sharma, Revenue Accountant who had been examined as DW2 to prove the demand Ex. D2 has come on record. Resultantly, the trial court had come to the conclusion that theft was being committed and the stand taken as such by the appellant was incorrect. Inspection had been done and the same had been duly proved by examining the concerned official.

It is not the case that the husband is residing separately and is not staying in the house in question and admittedly he is also a beneficiary of the said theft though the meter might not be in his name. In such circumstances, once the husband wife are living together and

husband was involved in the theft and signed the inspection report the liability was obviously to fall upon the consumer and therefore the argument raised that wife was not liable for the acts of her husband is without any basis.

A factual finding has been recorded that the theft was being committed which has been duly proved by the relevant records and also by bringing on record the accounts on the basis of which the subsequent demand has been assessed and raised upon the consumer. In such circumstances, there is no illegality in the order passed by the Court below whereby the petition of the appellant was dismissed.

Resultantly, there is no merit in the appeal and the same is accordingly dismissed.

**(G.S. SANDHAWALIA)**  
**JUDGE**

01.03.2017

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Whether speaking/non-speaking: Yes/No  
Whether reportable : Yes/No