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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.M.C. 1077/2016, CRL MA 4629/2016 & 17327/2016

ASHWANI KUMAR CHOPRA Petitioner

Through Mr. Kunal Kalra, Advocate

versus

BSES RAJDHANI POWER LIMITED Respondent

Through Mr. Sunil Fernandes, Standing
Counsel for BSES RPL with Mr.
Arnav Vidyarthi and Ms. Anju
Thomas, Advocates

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

% **17.08.2017**

1. By this petition under Section 482 of Code of Criminal Procedure, the petitioner has prayed for quashing of the proceedings of complaint case No.230/2014 titled "BSES Rajdhani Power Limited vs. Manoj Chopra & Anr.", under Section 135 of Electricity Act pending before the Special Court (Electricity).
2. Trial is at the initial stage. Even charge has not been framed. It is at the summoning stage petitioner has approached this court.
3. It is trite law that the powers under Section 482 Cr.PC have to be exercised by the High Court to quash the criminal proceedings very sparingly and in rarest of rare cases. The Court shall not embark upon an

inquiry as to the reliability and genuineness or otherwise of the allegations made in the complaint. The court has no jurisdiction to examine correctness of the allegations. The power can be used only to prevent the abuse of process of court and cannot be exercised to stifle the legitimate prosecution. Reliance is placed on Manoj Kumar Vs.UOI 2005 (2) JCC 1082.

4. I have perused the complaint filed by the respondent before the Special Court (Electricity), wherein specific allegations have been made that on 20.09.2013 an inspection team comprising of Manager, Engineer and Technician of the respondent company inspected the premises bearing No.G-15, Milap Nagar, Mangal Bazar Road, Uttam Nagar, New Delhi. During inspection, electricity meter was found at the site but accused was found indulging in direct theft of the electricity by tapping the electricity from the service cable by using two core black coloured cables. Inspection report (Annexure 'B') was prepared at site. Total connection load was found to be 3.52 KW/NX/Dt. It has been specifically alleged in the complaint that accused had committed direct theft of electricity by tapping main lines of the respondent.

5. Learned counsel for the petitioner has contended that petitioner is merely the owner of the premises in question and not a registered consumer of electricity connection. It is the accused no.2 who had been using the premises. In respect of the earlier raids, accused no.2 had settled the matter with the respondent. Civil suits are pending between the petitioner and accused no.2 in respect of the subject property. It is further contended that the petitioner cannot be prosecuted merely being owner of the premises in question.

6. In the complaint it has been specifically mentioned that no meter was

found installed at site, however, accused was found illegally committing theft of electricity by tapping the service cable of respondent no.2. It is not in dispute that petitioner is the owner of the subject premises, inasmuch as, meter was found installed. Learned counsel for the respondent has contended that theft could not have been committed by the accused not without the connivance of petitioner. Averments made in the complaint have to be accepted as true at this stage and veracity of the statements made in the complaint cannot be gone into in this petition under Section 482 Cr.P.C. Perusal of order dated 9th February, 2016 shows that the co-accused claimed himself to be the tenant in respect of property though petitioner's case is that respondent no.2 is not his tenant.

7. All the disputed questions of facts are matter of trial. I find no reason to interfere with the order of Special Judge and to stifle the criminal proceedings based on the inspection conducted by the joint team of the respondent.

8. Petition is dismissed.

A.K. PATHAK, J

AUGUST 17, 2017

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