

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.8223 of 2016

Arising Out of PS.Case No. -178 Year- 2013 Thana -CHAINPUR District- BHABHUA (KAIMUR)

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Md. Ashgar Khan @ Ashgar Khan, Son of Late Sadik Khan, Village- Chainpur,
P.S- Chainpur, District- Kaimur.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The South Bihar Power Corporation Limited through us Managing Director.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Dharmendra Kumar Singh, Advocaes.
For the opposite parties : Mr. Vinay Kirti Singh, Sr. Advocate.
Mr. Vijay Kumar Verma, Advocate.
Mr. Akhileshwar Singh Advocate, SBPDCL
For the Opposite Party/s : Mr. Amrendra Pd., A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL JUDGMENT

Date: 06-09-2018

1. This application under Section 482 of the Code of Criminal Procedure has been filed for quashing the order dated 27.10.2015 passed by the learned Chief Judicial Magistrate, Kaimur at Bhabua, in Chainpur P.S. Case No. 178 of 2013 by which the learned Magistrate took cognizance against the petitioner for the offences under Section 379 of the Indian Penal Code and Section 135 of Electricity Act.

2. Heard learned counsel for the petitioner, learned counsel for the opposite party No. 2 and State.

3. Counsel for the petitioner submits that earlier he



has filed case for correction of the bill before Consumer Forum which was allowed by order dated 27.6.2011 passed by District Forum Kaimur, Bhabhua, in case No. 05 of 2006. Thereafter, the instant case has been filed on 20.11.2013. Counsel for the petitioner further submits that Electricity Department did not obey the order of Consumer Forum and instant First Information Report has been filed for committing theft of electricity against the petitioner.

4. It is alleged in the written report that an amount of Rs.94,522/- of electricity department was dues against the petitioner, for which, electricity connection was disconnected. It is further alleged that during raid conducted by Electricity Department, petitioner was found using electricity by connecting *toka* and committed theft of electricity, on account of which, the Electricity Department had suffered total loss of Rs.1,01,441/-.

5. The cognizance has been taken by the court below on the basis of allegation made in First Information Report lodged by opposite party No. 2 who is Junior Electrical Engineer and after submission of charge sheet by the police. The filing of case in Consumer Forum for correction of bill by the petitioner will not bar launching of criminal case against the petitioner by electricity department for committing electricity theft as the same has totally different cause of action.



6. Therefore, this Court is not inclined to interfere with the impugned order.

7. This Criminal Miscellaneous application is accordingly dismissed.

(Sanjay Priya, J)

S.Ali/-

AFR/NAFR	AFR
CAV DATE	N.A.
Uploading Date	10/09/2018
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