

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.38325 of 2016

Arising Out of PS.Case No. -98 Year- 2015 Thana -PATORI District- SAMASTIPUR

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Dilip Kumar Roy @ Chedi Roy, Son of Lala Roy, Resident of Village- Dhamaun,
P.S.- Patori, District- Samastipur.

.... Petitioner

Versus

1. The State of Bihar.
2. Md. Imran Ansari, Son of Gul Md. Ansari, Resident of Village- Patiya, P.O.- Nahauna, P.S.- Sasaram, District- Rohtas, Present posted as Assistant Electrical Engineer, Electricity Supply Sub Division, Mohiuddin Nagar, Dalsinghsarai, Samastipur.

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Jagjit Roshan, Advocate
For the Opposite Party/s : Smt. Pronati Singh, APP-14

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 16-01-2018

Heard learned counsel for the petitioner and learned
counsel for opposite parties.

2. This application under Section 482 of the Code of Criminal Procedure has been filed by the petitioner for quashing of the order dated 18.03.2016 passed in Patori P. S. Case No. 98 of 2015 corresponding to G. R. No. 675 of 2015 by the learned Chief Judicial Magistrate, Samastipur by which cognizance has been taken for the offence punishable under Section 135 of the



Electricity Act.

3. According to the prosecution case lodged by the Assistant Electrical Engineer, Electricity Supply Sub-Division, Mohiuddin Nagar, Dalsinghsarai, Samastipur, on 20.03.2015, when a raid was conducted to check the theft of electricity, the petitioner was found committing theft of electricity by tapping main L. T. line. The estimated loss of revenue to North Bihar Power Distribution Company is mentioned as Rs.12,528/- in the written report.

4. It is submitted by the learned counsel for the petitioner that the impugned order taking cognizance of the offence against the petitioner is bad in law in view of the fact that the petitioner was a security guard and was not the actual consumer of the power company. The connection was in the name of Vodafone and the prosecution could have been launched only against the consumer and not against the security guard. He further submitted that moreover, the petitioner has already deposited the amount of estimated loss at the time of his grant of bail and, in view of Section 152 of the Electricity Act, 2003, the court below ought to have dropped the proceeding against him.

5. On the other hand, learned counsel for the State and learned counsel for the North Bihar Power Distribution Company



contested the matter. They have submitted that whoever is responsible for using electricity by hooking main LT line bypassing the meter has to be prosecuted under Section 135 of the Electricity Act, 2003 and simply because, the petitioner is a security guard, it cannot be said that he was not liable for prosecution. They submitted that from perusal of the first information report (for short 'the FIR') itself, it would be apparent that at the relevant time, it was the petitioner, who was found illegally hooking the main LT line bypassing the meter and consuming electricity. They further contended that so far as Section 152 of the Electricity Act is concerned, the petitioner has not deposited the compounding fee and merely because he has deposited certain amount as condition of bail, the prosecution cannot be held to be compounded.

6. I have heard learned counsel for the parties and perused the record.

7. I find substance in the arguments of learned counsel for the opposite parties. From perusal of the FIR, it would be apparent that the petitioner was found committing theft of electricity. The matter was investigated by police and in course of investigation allegations made in the FIR were found to be true. In view of the materials collected during investigation, if the learned



Chief Judicial Magistrate found a *prima facie* case against the petitioner, no illegality can be found with the order, as there is no such provision in law that only the consumer can be prosecuted.

8. So far as the contention of the petitioner in respect of deposit of loss amount is concerned, admittedly, the petitioner has not deposited the compounding fee as per the provisions prescribed under Section 152 of the Electricity Act, 2003. In that view of the matter, he cannot take the plea that in view of deposit of the estimated loss amount, the prosecution case should be dropped against him.

9. In view of above, the application, being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J.)

Kanchan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.01.2018
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