

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.2552 of 2016

Arising Out of PS.Case No. -100 Year- 2014 Thana -BASOPATTI District- MADHUBANI

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1. BHOGENDRA PANDEY @ BHOGENDRA MANDAL son of Sury Narayan Pandey resident of village- Basopatti, P.S.- Basopatti, District- Madhubani

.... Petitioner/s

Versus

1. The State of Bihar
2. Bihar Electricity Board, Patna

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Gagan Deo Yadav
For the North Bihar Power Distribution
Company Limited (O.P. NO. 2) : Mr. Padma Deo Narayan
For the State : Mr. Jagdhar Prasad (App)

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

5 03-10-2018 None appeared on behalf of petitioner. Learned
counsel for Electricity Board is present.

The petitioner has challenged the order dated 29.04.2015 passed by learned Judicial Magistrate 1st Class, Madhubani in Basopatti P.S. Case No. 100/2014, whereby the court below has found *prima facie* case for the offence under Section 135 of Electricity Act against petitioner.

In the written report, it is alleged that when informant reached near Hero Honda Show Room, petitioner was found committing theft of electricity on account of which Electricity Board suffered loss of Rs. 43,873/-.



Learned counsel for the petitioner has submitted that petitioner is *bonafide* consumer of the North Bihar Power Distribution Company Limited. The amount of fine has been deposited in favour of said department, which is apparent from Annexure-3.

Learned counsel for the petitioner has submitted that petitioner has deposited the aforesaid amount on the basis of direction of the department showing dues of amount for his domestic connection. This fact has also been brought to the notice of Investigating Officer.

Learned counsel for Electricity Board has filed counter affidavit stating therein that the instant case has been filed for committing electricity theft. The amount said to have been deposited by the petitioner was with regard to dues of the domestic electric connection. The petitioner on the date of raid was found committing theft of electricity by connecting electric wire (Tokka).

The police after investigation submitted charge-sheet in this case. The court below on the basis of charge-sheet has taken cognizance against petitioner.

The court below is only required to see *prima facie* case at the time of cognizance.



Therefore, this Court does not find any illegality in the impugned order. Accordingly, this quashing petition is dismissed.

The petitioner is given liberty to raise all the points as raised in this petition at appropriate stage of trial including at the time of framing of charge, which shall be considered by the court below in accordance with law without being prejudiced by this order.

(Sanjay Priya, J.)

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