

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.3803 of 2018

Arising Out of PS.Case No. -332 Year- 2017 Thana -Jakkanpur District- PATNA

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Sanjay Kumar S/o Late Baijnath Saw, R/o Chandpur Bella, Near Durga Mandir,
P.S.- Jakkanpur, District/Town- Patna.

.... Petitioner

Versus

1. The State of Bihar through Energy Secretary, Patna.
2. South Bihar Power Distribution Company Ltd. through its Managing Director,
Vidyut Bhawan, Bailey Road, Patna-800001.
3. Electrical Executive Engineer (Special Task Force), South Bihar Power
Distribution Company Ltd. Vidyut Bhawan, Patna.
4. Electrical Executive Engineer, Electric Supply Division, Gardanibagh (PESU
West), Patna.
5. Assistant Electrical Engineer-Cum - Assessing Officer, Electric Supply Sub-
Division Jakkanpur, Pesu West , Patna.

.... Opposite Parties

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Appearance :

For the Petitioner/s : Mr. Mukesh Prasad Singh, Adv.
For the Opposite Party/s : Mr. Vinay Kirti singh, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 31-08-2018

Heard learned counsel for the petitioner and learned
counsel for the State.

2. This application under Section 482 of the Code of
Criminal Procedure has been filed by the petitioner for quashing the
first information report (for short 'FIR') lodged on 28.09.2017 by the
informant, namely, Mr. Samir Kumar Rajak- Assistant Electrical
Engineer, Electric Supply Sub-Division, Jakkanpur, vide Jakkanpur



P.S Case No. 332 of 2017 registered under Section 135 of the Electricity Act, 2003.

3. Learned counsel appearing for the petitioner submitted that the inspection report by the competent authority of the Power Company dated 30.03.2017 would reflect that there was neither any tampering in the meter or its seal. However, the test report dated 22.09.2017 of the Central Power Research Institute, Bhopal would show a crack near intersection of base and the seals of meter were also found tampered. He contended that in view of a crack found on the body of the meter and tampering found on the seal of the meter, it would manifest that in a planned manner the informant has implicated the petitioner in a false and fabricated case.

4. On the other hand, learned counsel appearing for the Power Company submitted that the test report submitted by the Central Power Research Institute conclusively establishes that the meter was tampered at the time of inspection of the premises. Hence, an offence under Section 135 of the Electricity Act is clearly attracted.

5. I have heard learned counsel for the parties and carefully perused a copy of the FIR of Jakkanpur P.S Case No. 332 of 2017 as contained in Annexure -1 to this application.

6. On perusal of the FIR, it would appear that the



allegation against the petitioner is that on 30.03.2017, officials of the Bihar State Power Holding Company Limited inspected his premises which was having LTIS-1 service connection with sanctioned load of 19 HP on suspicion that power theft was being committed in the said premises. In that view of the matter, the electric meter installed in the premises of the petitioner of make- landis+ Gyr, serial no. B1005350 was seized for inspection and in its place new electric meter of make-genus bearing serial no. SB3214017 was installed and electric line was resumed at once. The representative of the petitioner put his signature on the paper seal of the seized meter whereafter the paper sealed meter was kept in steel box which was also sealed with polycarbonate seal. Further, in compliance of Clause no. 14 (a) of the Bihar Electricity Supply Code, information was given to the petitioner for giving option amongst three recognized laboratories for meter testing but he did not opt any one such laboratory for testing of energy meter. Again, he was informed through registered post for giving his option for meter testing in any one of the premises, but the letter was returned. The Assistant Electrical Engineer, Electric Supply Sub-Division, Jakkanpur personally went to the residence of the petitioner and requested to receive the letter for giving his option of laboratory for meter testing, but he refused to receive the same. Thereafter, the Electrical Executive Engineer, Gardanibagh vide his



letter no. 448 dated 28.07.2017 informed the Assistant Electrical Engineer, Electric Supply Sub Division, Jakkanpur that the testing of energy meter would be done on 20.09.2017 to 22.09.2017 at Central Power Research Institute, Bhopal. Accordingly, the meter was tested at Bhopal and the Central Power Research Institute submitted its report. It is further alleged in the FIR that from the test report, it appears that after opening of the meter it was found that an external circuit was connected with wires to voltage circuit of original PCB inside the meter.

7. On the basis of these allegations, the informant alleged that a massive theft was being committed by the petitioner by means of by-passing current.

8. It is true that the report of Central Power Research Institute would show that at the time of verification of the meter, an observation was made that body of meter had a crack at the intersection of the base and meter cover and body seals of meter were tempered. However, that alone would not be sufficient for quashing the FIR.

9. Apparently, on the basis of allegations made in the FIR, a cognizable offence is made out.

10. To hold investigation into a cognizable offence is the statutory duty of the police. In case the allegations in the FIR are



found to be false, the police may submit a final report. However, if the allegations are found true, the petitioner may be sent up for trial. The role of the court would start only after investigation is complete and a report is submitted in the court under Section 173 of the CrPC. Prior to that, it would not be proper for this Court to give any definite finding as to the guilt or innocence of the petitioner. At this stage, no case for interdicting the investigation of the case is made out.

11. The application is dismissed, accordingly.

(Ashwani Kumar Singh, J.)

Kanchan/SkSuman.

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	04.09.2018
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