

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.711 of 2018

Arising Out of P.S.Case No. - 490 Year- 2017 Thana - Bhabhua District- BHABHUA (KAIMUR)

=====

M/s Neelam Printers & General Order Suppliers, Near Railway Reservation Counter Old G.T. Road, Aurangabad, through its Partner Satyendra Narayan Singh, son of Late Jagdish Singh resident of Village, Dihara, P.S. Obera, District Aurangabad.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Health Department, Bihar, Patna.
2. The Principal Secretary, Health Department, Bihar, Patna.
3. The District Magistrate-cum-Chairman, District Health Society, Bhabhua, District- Bhabhua.
4. The Civil Surgeon-cum-Member Secretary, District Health Society, Bhabhua, District- Bhabhua.
5. The Deputy Superintendent cum Member Secretary Patient Welfare Society Sadar Hospital Bhabhua.
6. The Bihar State Electricity Board Now Bihar State Power (Holding Company Limited), Vidyut Bhawan, Baily Road, Patna through its Chairman.
7. The Managing Director, South Bihar Power Distribution Company Limited Vidyut Bhawan, Baily Road, Patna.
8. The Chairman cum Managing Director, the Bihar State Power Holding Company Limited, Vidyut Bhawan, Baily Road, Patna.
9. The Secretary Bihar State Electricity Board Now Bihar State Power Holding company Limited, Vidyut Bhawan Bailey Road, Patna.
10. The Executive Engineer Electricity Supply Division Kaimur Bhabhua.
11. The Assistant Electrical Engineer, Electric Supply, Sub Division, Bhabhua.
12. The Junior Engineer Bhabhua Urban Bhabhua.
13. The Junior Sharni Purush Electric Supply Division Bhabhua.
14. The Junior Electrical Engineer Bhagwanpur, Kaimur, Bhabhua.
15. The Deputy Inspector General of Police Sahabad Range, Dehri on Sone, Bihar.
16. The Superintendent of Police, Kaimur, Bhabhua, Bihar.
17. The Officer In charge, Bhabhua, District Bhabhua.

.... Respondents

=====

Appearance:

For the Petitioner/s	:	Mr. Sanjeev Kr. Mishra, Advocate.
For the State	:	Mr. Neeraj Raj, AC to GA 8.
For the Power Holding Company:		Mr. Kumar Priya Ranjan and Mr. Niraj Kumar, Advocates.

=====

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

Date: 03-05-2018



Heard learned counsel for the petitioner and learned counsel representing respondents no. 6, 7 & 8 as also learned counsel representing the State.

2. Petitioner in the present case is seeking quashing of the First Information Report being Bhabhua P.S. Case No. 490 of 2017 dated 10.08.2017 registered U/S 135 of the Bihar Electricity Act. According to the Assistant Electrical Engineer, who has lodged the First Information Report, in course of his inspection of the Sadar Hospital, Bhabhua he found that this petitioner was supplying electricity through a generator set by using a changer and connecting LT wires with one phase and one neutral wire. Having found that the petitioner was committing theft of electricity, a videography of the whole occurrence was done and seizures were also made. A copy of the Seizure List is enclosed with the F.I.R. There are as many as five witnesses to the said seizure. A copy of the Seizure List was handed over to the Generator Operator but he refused to receive the same.

3. Learned counsel representing the petitioner submits that from Annexure-1 to the Writ Application it would appear that there was an Agreement between the Civil Surgeon-cum-member Secretary, District Health Society, Kaimur and this petitioner for supplying electricity through the Generator set of the petitioner for a period of three years. Referring to some of the clauses under the Agreement



learned counsel submits that this petitioner was required to bear the entire expenses of operation of the Generator Set and in case of low voltage or in an emergent condition if the Generator Set is used for supply of energy then the Deputy Superintendent or the In-charge Medical Officer of the Hospital had to make entry in this regard in the Log Book.

4. Learned counsel submits that from Annexure-4 it will appear that there was no Generator Room provided to this petitioner and, therefore, the allegations made in the F.I.R. that the petitioner was using a Generator in the Generator Room is false and baseless.

5. Learned counsel has yet another submission based on Annexure-6, i.e. letter no. 31 dated 20.01.2018 said to have been issued by the Public Information Officer of the Hospital on the request of the petitioner. According to Annexure-6, the petitioner is not responsible to supply electricity in the Civil Surgeon office and Tuberculosis Department. It is thus submitted by the learned counsel for the petitioner that this petitioner cannot be said to be involved in commission of theft of electricity because he was not going to gain out of it. Learned counsel rather has expressed surprise as to how the Civil Surgeon or the Superintendent of the Hospital where electricity was being used applying LT wire has not been made accused in this case.



6. On the other hand, learned counsel representing the respondents no. 6, 7 & 8 has submitted with reference to his Counter Affidavit filed today showing Annexures R-6/A & R-6/B which are the Interruption Report of Feeder No. 1 (Town) of PSS Bhabhua (Old) relating to supply connected to the Sadar Hospital, Bhabua. It is the submission of the learned counsel representing these respondents that there was a supply of electricity for about 678 hours in the Hospital in the month of May 2017 but surprisingly the petitioner had raised a bill for the same period showing supply of electricity through the Generator set for 440 hours approximately for which he was paid Rs. 2,86,130/-. It is his submission that the F.I.R. has been lodged when in course of inspection the theft being committed in the premises of the Hospital has come to the notice of the informant. It is further submitted that whether the Hospital authorities were also involved in the case or not will be a subject matter of investigation and no conclusion may be reached at this stage by this Court on the basis of the submission of the learned counsel representing the petitioner.

7. Learned counsel representing the State has also opposed the application.

8. Having heard learned counsel for the parties and upon perusal of the records, considering the scope and ambit of interference in the matter of quashing of the F.I.R. which has an effect of stopping



or curtailing the investigation itself at the threshold, this Court is of the considered opinion that the petitioner is not able to make out a case for interference under Article 226 of the Constitution of India. A bare reading of the F.I.R. giving rise to the present case shows that the allegations, if proved, will definitely constitute an offence of theft. Since the investigation is still pending and the entire allegations are to be probed by the statutory agency, this Court would not interfere with such investigation at the instance of the petitioner.

9. The Writ Application has no merit. It is accordingly dismissed.

(Rajeev Ranjan Prasad, J)

Dilip, AR

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	07.05.2018
Transmission Date	07.05.2018

