

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Misc. Petition No.1346 of 2018**

State Of Chhattisgarh Through- The Station House Officer,
Police Station Jamul, District- Durg, Chhattisgarh.....
(Prosecution)

---- Petitioner**Versus**

1. Pramod Mehta S/o Babu Bhai Mehta Aged About 60 Years R/o House No. 43/20, Padmnabhpur, Durg, Chhattisgarh.....(Non-Applicant)
2. Ankit Mehta S/o Kushal Das Mehta Aged About 35 Years R/o MIG-475, Padmnabhpur, Durg, Chhattisgarh

---- Respondents

For the Petitioner/State : Shri Vinod Tekam, Panel Lawyer
For the respondents : None

Hon'ble Shri Justice Ram Prasanna Sharma
Order On Board

29.10.2018.

1. Heard on IA No.01/18 for condonation of delay in filing the petition.
2. For the reasons mentioned in the application and the law laid down by Hon'ble Supreme Court in the matter of **State of Haryana Vs. Chandra Mani & Ors.** reported in **1996 3 SCC 132**, the delay of 01 day in filing the petition is hereby condoned.
3. Also heard on application for grant of leave to appeal under Section 378(3) of CrPC.
4. This appeal has been preferred against judgment of acquittal dated 28.3.2018 passed by Special Judge under Electricity Act, Durg (CG) in Special Case No.23/2008 wherein the said Court acquitted the respondents of the charge under Section 135 of the Electricity Act.

5. As per the case of the prosecution, on 04.9.2006 the vigilance team of the Chhattisgarh State Power Distribution Company Ltd, Industrial Area, Bhilai conducted raid in the premises of the respondents. i.e. M/s. Kankai Steel Pvt. Ltd. where the Service No.1001077 was running. It was found that seal of the meter was tampered which amount to theft of electricity.

6. Though it is alleged that the meter was tampered but no device to tamper the meter was seized in the present case. Meter of the said company was also not seized. Spot inspection report was also not established as per the record of the trial Court. It is alleged that some device was there for calculating the consumption of electricity but the said device was also not submitted before the trial Court.

7. On overall assessment of the evidence, the trial Court opined that tampering the seal of the meter and use of unauthorised electricity on the part of the respondents are not established. When basic evidence of spot inspection is not established and tampering device and meter were not produced before the trial Court, the trial court opined that consumption of electricity by tampering the meter is not established. The trial Court has discussed the entire evidence elaborately and this Court has no reason to record a contrary finding. It is not a case where the respondents should be called for full consideration of the case. Therefore, it would not be proper for this Court to grant leave to appeal.

8. Accordingly, the application for leave to appeal is rejected.
Consequently, the CrMP stands dismissed.

Sd/-
(Ram Prasanna Sharma)
JUDGE

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