

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No.777 of 2018

Shree Mahamaya Bunkar Sahkari Cooperative Samiti through President Vyas Narayan Dewangan, son of Kaliram Dewangan, aged about 52 years, R/o Ward No.6, Belahi Para, Patan Shubhash Chowk, Patan, Durg, District Durg, Chhattisgarh

---- Applicant

versus

1. Narendra Kumar Patel, S/o Bhagirathi Patel, aged about 35 years, R/o Mahamaya Para, New Bus Stand, Patan, P.S. Patan, District Durg, Chhattisgarh
2. C.G. Power Distribution Company Ltd. through Vilas Sabde, S/o Biyaji Sabde, aged about 48 years, Junior Engineer, Patan Distribution Centre, District Durg, Chhattisgarh

--- Respondents

For Applicant	:	Shri Jitendra Gupta, Advocate
For Respondent No.1	:	Shri Vaibhav A. Goverdhan, Advocate
For Respondent No.2	:	Shri Raja Sharma, Advocate

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

14.11.2018

1. Heard on I.A. No.1 of 2018 for condonation of delay in filing the revision. For the reasons mentioned in the application, it is allowed and delay is condoned.
2. With the consent of Learned Counsel appearing for the parties, the matter is heard finally.
3. Facts of the case, in brief, are that a complaint case under Section 135 of the Electricity Act, 2003 was filed by Respondent No.2 against Respondent No.1 on the ground that Respondent No.1 was running a rented shop in the premises of the Applicant.

Respondent No.1 was using an electric metre which was installed in the name of the Applicant. On 10.6.2011, on an inspection made, it was found that Respondent No.1 was stealing electric energy by tampering the said electric metre. During pendency of the said complaint case, vide the impugned order dated 26.9.2017, the Special Judge under the Electricity Act, Durg discharged Respondent No.1. However, liberty was granted to the Complainant/Respondent No.2 that it can realise the amount of fine either from the Applicant or from Respondent No.1. Hence, this revision by the Applicant.

4. Shri Jitendra Gupta, Learned Counsel appearing for the Applicant submits that in the said complaint case, the Applicant was not a party nor he filed any compromise petition before the Special Court. Despite that, without making him a party and without affording him an opportunity of hearing, the Special Court ordered that the amount of fine can also be realised from him in the alternative, which is not in accordance with law.
5. Shri Vaibhav A. Goverdhan, Learned Counsel appearing for Respondent No.1 and Shri Raja Sharma, Learned Counsel appearing for Respondent No.2 support the impugned order.
6. I have heard Learned Counsel appearing for the parties and perused the material available with due care.
7. It is not in dispute that a complaint case was filed against Respondent No.1 only. The Applicant was not made party in the said complaint case nor had he preferred any application for

compounding the offence. Though the electric metre was installed in the name of the Applicant himself, allegedly tampering in the said metre was done by Respondent No.1. In these circumstances, if any amount of fine was to be realised in that complaint case, the same was to be done from Respondent No.1 only. Without making a party or giving an opportunity of hearing, the order of recovery of amount of fine from the Applicant is not in accordance with law and against the principle of natural justice. Therefore, the said part of the impugned order is quashed and the instant revision is accordingly allowed.

Sd/-

(Arvind Singh Chandel)
Judge